De Corpore Politico.

OR THE

ELEMENTS OF LAW,

Moral & Politick.

WITH Former

Discourses upon severall Heads; as 296

Of { *The Law of Nature.*
Oathes and Covenants.
Several kinds of Government.

With the Changes and Revolutions of them. E

By *Tho. Hobbs* of *Malmsbury.*

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BIBLIOTHECA · BODLEIANA

To

The Reader.

Reader,

Ou may be pleased to take notice, That the first Part of the Work depends upon a former Treatise of Humane Nature written by Mr. *Hobbs*, and by a Friend of

his committed to the Press for the benefit of Mankind. It was thought fit, that nothing of so worthy an Author should be left unprinted, especially considering, that this Piece is most usefull for the Society of reasonable Creatures, being the Grounds and Principles of Policy, without which there would be nothing but Confusion in the World. I am confident, if mens Minds were but truly fixt upon the Center of this Discourse, they would

would not prove such Weather-cocks, to be turned about with the wind of every false Doctrine, and vain Opinion. VVe should then be free from those Disorders which threaten distraction to the Soul, and Destruction to the Common VVealth. But let others write never so well, if our practise doe not second their instructions, we may bee wise enough to foresee our misery, but never know how to prevent it. What pitty is it, that such rare

rare Concluſions as theſe are, ſhould produce no other effect, but to informe our Knowledg, and confute our Converſation; whileſt we neglect the Truth that is apprehended. Yet there is ſome hope, that ſuch Obſervers, whoſe VViſdome hath received the ſtamp of Goodneſſe, will improve their skill to a reall Advancement of thoſe benefits, which lye horded up in this curious Cabinet, To whoſe uſe and behoof, theſe excellent notions are commended,

mended, as the best that ever were writ in this kind, and may serve for a generall Ground and Foundation to all regular Conceptions, that concern the Essence and Existence of Man, the Government of Kingdoms and Common-VVealths, and by consequence our eternall Salvation.

De Corpore Politico.

CHAP. I.

1. 2. *Men by Nature Equall.* 3. *By vain glory indiſpoſed to allow equality with themſelves, to others.* 4. *Apt to provoke another by Compariſons.* 5. *Apt to incroach one upon another.* 6. *Right defined.* 7. *Right to the End, implyeth right to the Means.* 8 *Every Man his own Judge by Nature.* 9. *Every Mans ſtrength and knowledge for his owne uſe.* 10. *Every Man by nature hath right to all things.* 11. *Warr and Peace defined.* 12. *Men by noture in the ſtate of Warr.* 13. *In Manifeſt Inequality, Might is Right.* 14. *Reaſon dictateth Peace.*

IN a former Treatiſe of Humane uature already printed, hath beene ſet forth the whole nature of Man, conſiſting in the Powers naturall of his Body and Mind, and may all be comprehended in theſe four, *Strength of Body, Experience, Reaſon,* and *Paſſion.*

2. In this, it will be expedient to consider in what estate of security this our Nature hath placed us, and what probability it hath left us, of continuing and preserving our selves against the violence of one another. And first, if we consider how little Odds there is of Strength or knowledge, between Men of Mature Age, and with how great facility he that is the weaker in strength, or in Wit, or in both, may utterly destroy the Power of the stronger; since there needeth but little force to the taking away of a Mans life, we may conclude that men, considered in meer Nature, ought to admit amongst themselves Equality; and that he that claimeth no more, may be esteemed Moderate.

3. On the other side, considering the great difference there is in Men, from the Diversity of their Passions, how some are vainly glorious, and hope for precedency and superiority above their fellows, not only when they are equall in power, but also when they are Inferiour; we must needs acknowledge that it must necessarily follow, that those men who are moderate, and look for no more but Equality of nature, shall be obnoxious to the Force of others, that will attempt to subdue them. And from hence shall proceed a generall diffidence in mankind, and mutuall fear one of another.

4. Farther, since Men by natural passion are divers wayes offensive one to another, every

every man thinking well of himself, and hating to see the same in others, they must needs provoke one another by Words, and other signes of contempt and hatred, which are incident to all comparison, till at last, they must determine the preheminence by Strength and force of Body.

5. Moreover, considering that many mens Appetites carry them to one and the same end; which end sometimes can neither be enjoyed in common, nor divided, it followeth, that the stronger must enjoy it alone and that it be decided by Battell who is the stronger. And thus the Greatest part of Men, upon no assurance of Odds, do nevertheless through Vanity, or Comparison, or Appetite, provoke the Rest, that otherwise would be contented with Equality.

6. And forasmuch as necessity of nature maketh men to will and desire *Bonum sibi*, that which is good for themselves, and to avoid that which is hurtfull; but most of all, the terrible enemy of Nature, Death, from whom we expect both the losse of all Power, and also the greatest of bodily paines in the losing; It is not against Reason, that a man doth all he can, to preserve his owne body and limbs, both from Death and Paine. And that which is not against reason, men call *Right*, or *Jus*, or *Blame/esse liberty*, of using our own naturall Power and Ability. It is therefore a right of Nature, That every man

may preserve his owne life and limbs, with all the Power he hath.

7. And because where a man hath right to the End, and the end cannot be attained without the Meanes; that is, without such things as are necessary to the End, it is consequent that it is not against Reason, and therefore right for a man to use all meanes, and doe whatsoever action is necessary for the preservation of his Body.

8. Also every man by right of Nature, is Judge himself of the necessity of the means, and of the greatnesse of the Danger. For if it be against reason, that I be Judge of mine owne danger my Self, then it is reason, that another Man be Judge thereof. But the same Reason that maketh another man Judge of those Things that concern me, maketh me also Judge of that that concerneth him. And therefore I have reason to Judge of his sentence, whether it be for my benefit, or not.

9. As a mans Judgment in right of nature is to be imployed for his own benefit, so also the Strength, Knowledg, and Art, of every man is then rightly imployed, when he useth it for himselfe; else must not a man have right to preserve himselfe.

10. Every man by Nature hath right to all Things, that is to say, to do whatsoever he listeth to whom he listeth, to possesse, use, and enjoy all things he will and can. For seeing all things he willeth, must therfore be

Good

Good unto him in his own judgment, because he willeth them, and may tend to his preservation some time or other, or he may judg so, and we have made him Judg thereof, *Sect.* 8. it followeth, that all things may rightly also be done by him. And for this cause it is rightly sayd, *Natura dedit omnia omnibus*, that nature hath given all things to all men; insomuch that *Jus & utile*, Right and Profit, is the same thing. But that right of all men to all things, is in effect no better than if no man had Right to any thing. For there is little use and benefit of the Right a Man hath, when another as strong, or stronger then himselfe hath Right to the same.

11. Seeing then to the Offensiveness of Mans nature one to another, there is added a Right of every man to every thing, whereby one man invadeth with right, and another man with Right resisteth, and men live thereby in perpetuall Diffidence, and study how to preoccupate each other: The estate of men in this naturall Liberty, is the estate of Warr. For *Warr* is nothing else but that Time wherein the Will and Contention of contending by Force, is either by words or Actions sufficiently declared; and the time which is not Warr, is *Peace*.

12. The estate of Hostility and War being such, as thereby nature it selfe is destroyed, and men kil one another: (as we know also

that it is, both by the experience of Salvage Nations that live at this day, and by the Histories of our Ancestors, the old Inhabitants of *Germany*, and other now civill Countries, where we find the people few, and short-lived, and without the ornaments and comforts of life, which by Peace and Society are usually invented and procured) He therefore that desireth to live in such an estate as is the estate of liberty and right of all to all, contradicteth himself. For every man by natural necessity desireth his own good, to which this estate is contrary, wherin we suppose contention between men by nature equal, and able to destroy one another.

13. Seeing this Right of Protecting our selves by our own discretion and force proceedeth from danger, and that danger from the Equality between mens Forces, much more reason is there, that a man prevent such Equality before the Danger cometh, and before the necessity of Battell. A man therefore that hath another man in his power to rule or govern, to do good to, or harm, hath right, by the advantage of this his present power, to take Caution at his pleasure, for his security against that other in time to come. He therefore that hath already subdued his Adversary, or gotten into his power any other, that either by Infancy, or weakness, is unable to resist him, by right of nature may take the best caution, that such Infant,

fant, or such feeble and subdued person can give him, of being ruled and governed by him for the time to come. For seeing we intend allwaies our one safety and preservation, we manifestly contradict that our intention, if we willingly dismiss such a one, and suffer him at once to gather strength and be our Enemy. Out of which may also be collected, That inresistable Might in the state of Nature is Right.

14. But since it is supposed by the Equality of strength, and other natural faculties of men, that no man is of might sufficient, to assure himselfe for any long time, of preserving himself therby, whiles he remaineth in the state of Hostility and War; Reason therefore dictateth to every man for his own good, to seek after Peace, as far forth as there is Hope to attain the same: and strengthen himselfe with all the help he can procure, for his own defence against those, from whom such Peace cannot be obtained: and to do all those things which necessarily conduce thereunto.

CHAP. II.

1. *The Law of Nature consisteth not in consent of men, but reason.* 2. *That every man deveſts himself of the Right he hath to all things is one precept of nature.* 3. *What it is to re-*

linquish and transferr ones Right. 4. *The Will to transfer, and the will to accept, both neceßary to the paſſing away of Right.* 5. *Right not transferred by words,* De futuro, *onely.* 6. *Words* De futuro, *together with other ſignes of the Will, may transferr Right.* 7. *Free Gift defined.* 8. *Contract, and the ſorts of it.* 9. *Covenant defined.* 10. *Contract of mutuall truſt, is of no validity in the Eſtate of Hoſtility.* 11. *No Covenant of men but with one another.* 12. *Covenant how diſſolved.* 13. *Covenant extorted by feare, in the Law of nature, valid.* 14. *Covenant contrary to former Covenant, voyd.* 15. *An oath defined.* 16. *Oath to be adminiſtred to every man in his own Religion.* 17. *Oath addeth not to the Obligation.* 18. *Covenants binde but to endeavour.*

WHat it is we call the Law of Nature, is not agreed upon by thoſe, that have hitherto written. For the moſt part ſuch writers as have occaſion to affirm, that any thing is againſt the law of Nature, do alledge no more than this, That it is againſt the conſent of all Nations, or the wiſeſt and moſt civill Nations. But it is not agreed upon, who ſhall judge which Nations are the Wiſeſt. Others make that againſt the Law of Nature, which is contrary to the conſent of all Mankind, which Definition cannot be allowed, becauſe then no man could offend againſt

againſt the Law of Nature; for the Nature of every man is contained under the Nature of Mankind. But foraſmuch as all men are carried away by the violence of their Paſſion, and by evill cuſtomes, do thoſe things which are commonly ſaid to be againſt the Law of Nature; It is not the conſent of Paſſion, or conſent in ſome Errour gotten by Cuſtome, that makes the Law of Nature. Reaſon is no leſs of the nature of man then Paſſion, and is the ſame in all men, becauſe all men agree in the Will to be directed and governed in the way to that which they deſire to attain, namely, their own Good which is the work of Reaſon, there can therefore be no other Law of Nature then Reaſon, nor no other Precepts of *Natural Law*, then thoſe which declare unto us the wayes of Peace, where the ſame may be obtained, and of Defence where it may not.

2. One Precept of the Law of Nature therefore this is, *That every man deveſt himſelf of the right he hath to all things by Nature.* For when divers men having Right not only to all things elſe, but to one anothers perſons, if they uſe the ſame, there ariſeth thereby Invaſion on the one part, and Reſiſtance on the other, which is *War*, and therefore contrary to the Law of Nature, the Sum whereof conſiſteth in making Peace.

3. Wen a man deveſteth and putteth from his Right, he either ſimply relinquiſheth it,

or transferreth the same to another man. To *Relinquish* it, is by sufficient signs to declare, that it is his will no more to doe that Action, which of right he might have done before. To *Transferre* Right to another, is by sufficient signs to declare to that other accepting thereof, that it is his Will not to resist, or hinder him, according to that Right he had thereto before he transferred it. For seeing that by Nature every man hath right to every thing, it is impossible for a man to transfer unto another any right that he had not before. And therefore all that a man doth in transferring of Right, is no more but a Declaring of the Will, to suffer him to whom he hath so transferred his Right, to make benefit of the same, without molestation. As for example, when a man giveth his Lands or Goods to another, he taketh from himself the Right to enter into, and make use of the said Lands or Goods, or otherwise to hinder him of the Use of what he hath given.

4. In transferring of Right, two things therefore are required, One on the part of him that transferreth, which is a sufficient signification of his will therein: The other, on the part of him to whom it is transferred, which is a sufficient signification of his Acceptation thereof. Either of these failing, the Right remaineth where it was: nor is it to be supposed, that he which giveth his Right

Right to one that accepteth it not, doth thereby simply relinquish it, and transfer it to whomsoever will receive it: in as much as the cause of transferring the same to one, rather then to another, is in the one, rather then in the rest.

5. When there appeare no other Signes that a man hath relinquished, or transferred his Right, but only Words, it behoveth that the same be done in Words, that signifie the present Time, or the time past, and not only the Time to come. For he that saith of the Time to come (as for example) to morrow, I will give, declareth evidently, that he hath not yet given. The right therefore remaineth in him to day, and so continues, till he have given actually. But he that saith, I give, presently, or have given to another any thing, to have and enjoy the same to morrow, or any other time future, hath now actually transferred the sayd Right, which otherwise he should have had at the time that the other is to enjoy it.

6. But because words alone are not a sufficient Declaration of the mind, as hath been shewed, *Chap.* 13. *Sect.* 8 Words spoken, *De Futuro*, when the Will of him that speaketh them may be gathered by other Signs, may be taken very often, as if they were meant *De Præsenti*. For when it appeareth, that he that giveth, would have his words so understood by him to whom he giveth, as if he did

actually

actually transfer his Right, then he must needs be understood to will all that is necessary to the same.

7. When a man transferreth any right of His to another, without consideration of reciprocal benefit past, present, or to come, this is called *Free Gift*. And in Free Gift, no other words can be binding, but those which are *De Præsenti*, or *De Præterito*. For being *De Futuro* only, they transfer nothing, nor can they be understood, as if they proceeded from the will of the Giver; because being a Free Gift, it carryeth with it no Obligation greater then that which is inforced by the Words. For he that promiseth to give, without any other consideration but his own affection, so long as he hath not given, deliberateth still, according as the causes of the Affections continue, or diminith: And he that deliberateth, hath not yet willed, because the will is the last Act of his deliberation. He that promiseth therefore, is not thereby a *Donor*, but *Doson*; which name was given to that *Antiochus*, that promised often, but seldome gave.

8. When a man transferreth his Right upon consideration of reciprocal benefit, this is not Free Gift, but mutual *Donation*, and is called *Contract*. And in all Contracts, either both Parties presently perform, and put each other into a certainty and allurance of enjoying what they contract for. As when men

men buy or sell, or barter: Or one Party performeth presently, and the other promiseth, as when one selleth upon Trust: Or else neither Party performeth presently, but trust one another. And it is impossible there should be any kind of Contract besides these three. For either both the Contractors trust, or neither, or else one trusteth, and the other not.

9. In all Contracts where there is trust, the promise of him that is trusted, is called a *Covenant*. And this though it be a promise, and of the time to come, yet doth it transfer the Right, when that time cometh, no lesse then an actuall Donation. For it is a manifest signe, that he which did perform, understood it was the Will of him that was trusted, to performe also. Promises therefore, upon consideration of reciprocal benefit, are Covenants and signes of the will, or last Act of Deliberation, whereby the liberty of performing, or not performing, is taken away, and consequently are obligatory. For where Liberty ceaseth, there beginneth Obligation.

10. Nevertheless, in Contracts that consist of such mutual trust, as that nothing be by either Party performed for the present, when the Contract is between such as are not compellable, he that performeth first, considering the disposition of men to take advantage of every thing for their benefit,

doth

doth but betray himself thereby to the Covetousnesse or other Passion of Him with whom he contracteth. And therefore such Covenants are of none effect. For there is no reason why the one should performe first, if the other be likely not to performe afterward. And whether he be likely or not, He that doubteth shall be Judge himself, as hath been sayd, *Chap.* 1. *Sect.* 3. as long as they remaine in the Estate and Liberty of Nature. But when there shall be such Power Coercive over both the Parties, as shall deprive them of their private Judgements in this point, then may such Covenants be effectuall, seeing he that performeth first shal have no reasonable cause to doubt of the performance of the other, that may be compelled thereunto.

11. And forasmuch as in all Covenants, and Contracts, and Donations, the Acceptance of him to whom the Right is transferred, is necessary to the Essence of those Covenants, Donations, *&c.* It is impossible to make a Covenant or Donation to any, that by nature, or absence, are unable; or if able, do not actualty declare their acceptation of the same. First of all therefore, it is impossible for any man to make a Covenant with God Almighty, farther then it hath pleased him to declare who shall receive and accept of the said Covenant in his name. Also it is impossible to make Covenant with those living

living Creatures, of whose wils we have no sufficient signe, for want of common language.

12. A Covenant to do any action at a certain time and place, is then dissolved by the Covenantor, when that time cometh, either by the Performance, or by the Violation. For a Covenant is void that is once impossible. But a Covenant not to do without time limited, which is as much as to say, a Covenant never to do, is dissolved by the Covenantor then only, when he violateth it or dyeth. And generally, all Covenants are dischargeable by the Covenantee, to whose benefit, and by whose right, he that maketh the Covenant is obliged. This Right therefore of the Covenantee relinquished, is a release of the Covenant. And universally, for the same reason, all Obligations are determinable at the will of the Obliger.

13. It is a Question often moved, Whether such Covenants oblige, as are extorted from men by Fear. As for example, Whether if a man for feare of Death, hath promised to give a Theef an hundred pounds the next day, and not discover him, whether such Covenant be obligatory, or not. And though in some Cases such Covenant may be void, yet it is not therefore void, because extorted by Fear. For there appeareth no reason, why that which we do upon Fear, should be lesse firme then that which we do

for

for Covetousnesse. For both the One and the Other maketh the Action Voluntary. And if no Covenant should be good, that proceedeth from feare of Death, no conditions of Peace betweene Enemies, nor any Laws, could be of Force, which are all consented to from that Fear. For who would lose the liberty that nature hath given him, of governing himselfe by his own will and power, if they feared not Death in the retaining of it? What Prisoner in War might be trusted to seek his Ransome, and ought not rather to be killed, if he were not tyed by the Grant of his life, to perform his Promise? But after the Introduction of Policy and Laws, the case may alter, for if by the Law the performance of such a Covenant be forbidden, then he that promiseth any thing to a Theif, not only may, but must refuse to perform it. But if the Law forbid not the performance, but leave it to the will of the Promiser, then is the performance still lawfull; and the Covenant of things lawfull is obligatory, even towards a Theif.

14. He that giveth, promiseth, or covenanteth to one, and after giveth, promiseth, or covenanteth the same to another, maketh void the later Act. For it is impossible for a man to transfer that Right which he himselfe hath not; and that Right he hath not, which he himself hath before transferred.

15. An *Oath* is a clause annexed to a Promise,

miſe, containing a Renuntiation of Gods mercy by him that promiſeth, in caſe he perform not as far as is lawfull and poſſible for him to doe. And this appeareth by the words which make the Eſſence of the Oath, *So helpe me God.* So alſo was it amongſt the Heathen. And the forme of the Romans was, *Thou Jupiter kill him that breaketh, as I kill this Beaſt.* The Intention therefore of an Oath being to provoke Vengeance upon the *Breakers* of Covenant; it is to no purpoſe to ſweare by Men, be they never ſo great, becauſe their puniſhment by divers Accidents may be avoided, whether they will or no, but Gods Puniſhment not. Though it were a Cuſtome of many Nations, to ſweare by the life of their Princes; yet thoſe Princes being ambitious of Divine Honour, give ſufficient Teſtimony, that they beleeved, Nothing ought to be ſworne by, but the Deity.

16. And ſeeing men cannot be afraid of the Power they beleeve not, and an Oath is to no purpoſe, without fear of him they ſwear by, it is neceſſary that he that ſweareth, doe it in that forme which himſelf admitteth in his owne Religion, and not in that forme which he uſeth, that putteth him to the oath. For though all men may know by nature, that there is an Almighty Power, nevertheleſſe they beleeve not, that they ſweare by him in any other form or name, then what

their

their own (which they think the true) Religion teacheth them.

17. And by the definition of an Oath, it appeareth, that it addeth not a greater Obligation to perform the Covenant sworne, then the Covenant carryeth in it self, but it putteth a man into greater danger, and of greater punishment.

18 Covenants and Oaths are *De Voluntariis*, that is, *De Possibilibus*. Nor can the Covenantee understand the Covenantor to promise *Impossibles*; for they fall not under Deliberation: and consequently (by *Chap.* 13. *Sect.* 10. which maketh the Covenantee Interpreter) no Covenant is understood to bind further, then to our best endevour, either in performance of the thing promised, or in something Equivalent.

CHAP. III.

1. *That men stand to their Covenants.* 2. *Injury defined.* 3. *That Iniury is done onely to the Covenantee.* 4. *The signification of those Names, Just, Iniust.* 5. *Justice not rightly divided into Commutative, and Distributive.* 6. *It is a Law of Nature, that He that is trusted, turn not that trust to the Damage of Him that trusteth.* 7. *Ingratitude defined.* 8. *It is a Law of Nature, to endeavour to accommodate one another.* 9. *And that*

that man forgive upon caution for the future. 10. *And that revenge ought to respect the future onely.* 11. *That reproach and contempt declared, is against the Law of Nature.* 12. *That Indifference of Commerce is of the law of nature.* 13. *That Messengers imployed to procure or maintaine Peace, ought to be safe by the Law of Nature.*

IT is a common saying, that nature maketh nothing in vain. And it is most certaine, that as the truth of a conclusion, is no more but the truth of the premises that make it, so the force of the Command, or Law of Nature, is no more then the Force of the Reasons inducing thereunto. Therefore the Law of Nature mentioned in the former Chapter, *Sect.* 2. namely, *That every man should devest himself of the Right*, &c. were utterly vaine, and of none effect, if this also were not a Law of the same Nature, *That every man is obliged to stand to, and perform, those Covenants he maketh.* For what benefit is it to a man that any thing be promised, or given unto him, if he that giveth, or promiseth, performeth not, or retaineth still the Right of taking back what he hath given?

2. The breach or violation of Covenant, is that which men call *Iniury*, consisting in some Action or Omission, which is therefore called *Iniust*. For it is Action or Omission without *Jus*, or right, which was transferred

or

or relinquish before. There is a great Similitude between that we call *Iniury*, or *Iniustice* in the Actions and Conversations of Men in the World, and that which is called *Absurd* in the arguments and Disputations of the Schools. For as he which is driven to contradict an Assertion by Him before maintained, is sayd to be reduced to an Absurdity; so he that through passion doth, or omitteth that which before by Covenant he promised to doe, or not to omit, is sayd to commit Injustice: And there is in every breach of Covenant a contradiction properly so called. For he that covenanteth, willeth to do, or omit, in the time to come. And he that doth any Action, willeth it in that present, which is part of the future time contained in the Covenant. And therefore he that violateth a Covenant, willeth the Doing and the not doing of the same thing, at the same time, which is a plaine contradiction. And so *Iniury* is an *Absurdity* of conversation, as Absurdity is a kind of Iniustice in Disputation.

3. In all violation of Covenant (to whomsoever accrueth the Damage) the Iniury is done onely to him to whom the Covenant was made. For example, If a man covenant to obey his Master, and the Master command him to give Money to a Third, which he promiseth to doe, and doth not, though this be to the Damage of the third,

yet

yet the Iniury is done to the Maſter onely. For he could violate no covenant with him with whom none was made, and therefore doth him no Iniury. For Iniury conſiſteth in violation of covenant, by the definition thereof.

4. The Name of *Juſt*, *uniuſt*, *Juſtice*, *Iniuſtice*; are Equivocall, and ſignifie diverſly. For Juſtice and Iniuſtice, when they be attributed to Actions, ſignifie the ſame thing with *No Iniury*, and *Iniury*, and denominate the Action *Juſt*, or *uniuſt*, but not the Man ſo. For they denominate him *Guilty* or *Not Guilty*. But when Juſtice or Iniuſtice, are attributed to Men, they ſignifie *Proneneſſe*, and Affection, and Inclination of Nature, that is to ſay, Paſſions of the minde, apt to produce Juſt and uniuſt Actions. So that when a man is ſayd to be J ſt, or Uniuſt; not the Action, but the Paſſion and Aptitude, to do ſuch Actions, is conſidered. And therefore a Juſt man may have committed an uniuſt Act; and an uniuſt man may have done iuſtly, not only one, but moſt of his actions. For there ts an *Oderunt peccare* in the uniuſt as well as in the Juſt, but from different Cauſes. For the uniuſt man who abſtaineth from Iniuries for fear of puniſhment, declareth plainly, that the Juſtice of his Actions dependeth upon Civill Conſtitution, from whence puniſhments proceed, which would otherwiſe in the Eſtate of Nature be uniuſt,

according

according to the Fountaine from whence they ſpring. This diſtinction therefore of *Juſtice* and *Iniuſtice*, ought to be remembred that when Iniuſtice is taken for Guilty, the Action is uniuſt, but not therefore the Man; and when Juſtice is taken for *Guiltleſneſs*, the Actions are iuſt, and yet not alwayes the Man. Likewiſe when Juſtice and Iniuſtice are taken for habits of the mind, the Man may be iuſt, or uniuſt, and yet not all his Actions ſo.

5. Concerning the Juſtice of Actions, the ſame is uſually divided into two kinds, whereof men call the one *Commutative*, and the other *Diſtributive*; and are ſayd to conſiſt, the one in proportion *Arithmetical*, the other in *Geometrical*: And *Commutative* Juſtice, they place in Permutation, as Buying, Selling, and Barter; *Diſtributive*, in giving to every man according to their deſerts. Which diſtinction is not well made, in as much as Iniury, which is the Iniuſtice of Action, conſiſteth not in the Inequality of the things changed, or diſtributed, but in the Inequality that men (contrary to nature and reaſon) aſſume unto themſelves above their Fellowes. Of which Inequality, ſhall be ſpoken hereafter. And for Commutative Juſtice placed in Buying and Selling, though the thing bought be unequall to the price given for it; yet for as much as both the Buyer and the ſeller are made Judges of the

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Value, and are thereby both satisfied, there can be no Iniury done on either side, neither Party having trusted, or covenanted with the other. And for *Distributive* Justice, which consisteth in the Distribution of our own benefits, seeing a thing is therfore said to be our own, becausé we may dispose of it at our own pleasure, it can be no Iniury to any man, though our liberality be farther extended towards another, then towards him; unlesse we be thereto obliged by Covenant: and then the Iniustice consisteth in the Violation of that Covenant, and not in the Inequality of Distribution.

6. It happeneth many times, that man benefitteth, or contributeth to the Power of another, without any Covenant, but onely upon confidence and trust of obtaining the grace and favor of that other, whereby he may procure a greater, or no lesse benefit and assistance to himselfe. For by necessity of Nature, every man doth in all his voluntary Actions intend some good unto Himself. In this Case it is a Law of nature, *That no man suffer him, that thus trusteth to his Charity, or good affection towards him, to be in the worse Estate for his trusting.* For if he shall so do, men will not dare to confer mutually to each others defence, nor put themselves into each others mercy, upon any earmes whatsoever, but rather abide the utmost and worst even of Hostility, by which generall

general diffidence, men will not only be in forced to Warr, but also afraid to come so much within the danger of one another, as to make any Overture of Peace. But this is te be understood of those onely, that confer their benefits (as I have sayd) upon trust onely, and not for tryumph or ostentation. For as when they do it upon trust, the End they aimed at, namely to be well used, is the Reward; so also when they do it for Ostentation, they have the Reward in themselves.

2. But seeing in this Case there passeth no Covenant, the breach of this Law of nature is not to be called *Iniury*. It hath another Name, to wit, *Ingratitude*.

8. It is also a Law of Nature. *That every man do help and endeavor to accommodate each other as far as may be, without danger of their Persons, and losse of their Means, to maintain and defend themselves.* For seeing the Causes of Warr and Desolation proceed from those Passions, by which we strive to accommodate our selves, and to leave others as far as we can behind us, it followeth, that that Passion by which we strive mutually to accommadate each other, must be the cause of Peace. And this Passion is that Charity defined, *Chap.9. Sect.* 17.

9. And in this Precept of Nature, is included and comprehended also this, *That man forgive and pardon him that hath done him wrong*

wrong, upon his repentance and caution for the Future. For *Pardon*, is Peace granted to him that (having provoked to War) demandeth it. It is not therefore Charity, but Feare, when a man giveth Peace to him that repenteth not, nor giveth caution for maintaining thereof in the time to come. For he that repenteth not, remaineth with the affection of an Enemy; as also doth he that refuseth to give caution, and consequently, is presumed not to seek after Peace, but advantage. And therefore to forgive Him is not commanded in this Law of nature, nor is Charity, but may sometime be prudence. Otherwise, not to pardon upon repentance and caution, considering men cannot abstain from provoking one another, is never to give *Peace*. And that is against the generall definition of the Law of Nature.

10. And seeing the Law of Nature commandeth Pardon, when there is repentance and caution for the Future, it followeth, that the same Law ordaineth, *That no Revenge be taken upon the consideration only of the offence past, but of the benefit to come*, that is to say, That all Revenge ought to tend to amendment, either of the Person offending, or of others, by the example of his punishment; which is sufficiently apparent, in that the Law of Nature commandeth Pardon, where the future time is secured. The same is also apparent by this, That revenge

when it considereth the offence past, is nothing else, but present Triumph and Glory, and directeth to no End: and what is directed to no end, is therefore unprofitable; and consequently the Triumph of Revenge, is Vain-Glory: And whatsoever is vain, is against Reason; and to hurt one another without Reason, is contrary to that, which by supposition is every mans Benefit, namely Peace, and what is contrary to peace, is contrary to the Law of Nature.

11. And because all signs which we shew to one another of Hatred and Contempt, provoke in the highest degree to Quarrell and Battel, (in as much as Life it self, with the condition of enduring scorn, is not esteemed worth the enjoying, much lesse Peace) it must necessarily be implyed as a Law of Nature, *That no man reproach, revile, deride, or any otherwise declare his Hatred, Contempt, or Disesteem of any other.* But this Law is very little practised. For what is more ordinary then reproaches of those that are rich, towards them that are not? or of those that sit in place of Judicature, towards those that are acculed at the Bar? although to greive them in that manner, be no part of the punishment for their Crime, nor contained in their Office. But Use hath prevailed, That what was lawful in the Lord towards the Servant whom he maintaineth, is also practised as lawful in the more Mighty towards the lesse

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though they contribute nothing towards their maintenance.

12. It is also a Law of Nature, *That one man allow Commerce and Traffick indifferently to one another.* For he that alloweth that to one man, which he denyeth to another, declareth his hatred to Him, to whom he denyeth. And to declare Hatred, is Warr. And upon this title was grounded, the great War between the *Athenians*, and the *Peloponnesians*. For would the *Athenians* have condescended to suffer the *Megareans*, their Neighbours, to traffick in their Ports, and Markets, that War had not begun.

13. And this also is a Law of Nature, *That all Messengers of Peace, and such as are imployed to procure and maintaine Amity between Man and Man, may safely come and goe.* For seeing Peace is the general Law of Nature, the meanes thereto (such as are these men) must in the same Law be comprehended.

CHAP. IV.

1. *A Law of Nature, that every man acknowledge other for his Equal.* 2. *Another, That men allow* æqualia æqualibus. 3. *Another, that those things which cannot be divided, be used in common.* 4. *Another, That things indivisible and incommunicable, be divided by Lot.* 5. *Natural Lot, Primogeniture, and first possession.* 6. *That*

men submit to arbitration. 7. *Of an Arbitrator.* 8. *That no man presse his counsel upon any man against his will.* 9. *How to know suddenly what is the Law of Nature.* 10. *That the Law of Nature taketh place after security from others to observe the same.* 11. *The Right of Nature not to be taken away by Custome, nor the Law of Nature abrogated by any Act.* 12. *Why the Dictates of Nature are called Lawes.* 13. *Whatsoever is against Conscience in a man that is his owne Judge, is against the Law of Nature.* 14. *Of* Malum Pœnæ, Malum Culpæ; *Virtue and Vice.* 15. *Aptitude to society, fulfilleth the Law of Nature.*

THe Question which is the Better man is determinable onely in the Estate of Government and Policy, though it be mistaken for a Question of Nature, not onely by Ignorant men, that thinke One man of Blood better then Anothers by Nature, but also by Him, whose Opinions are at this day and in these parts, of greater authority then any other humane writings. For he putteth so much difference between the Powers of men by Nature, that he doubteth not to set down as the ground of all his Politick, That some men are by Nature worthy to govern, and Others by Nature ought to serve. Which Foundation hath not only weaken-

the whole Frame of his Politicks, but hath also given men Colour and Pretences, whereby to disturb and hinder the Peace of one another. For though there were such a Difference of Nature, that Master and Servant were not by consent of men, but by Inherent Virtue, yet who hath that Eminency of Virtue above others and who is so stupid, as not to govern himself, shall never be agreed upon amongst men, who do every one naturally think himself, as able, at the least to govern another, as another to govern him. And when there was any contention between the Finer and the Coutser Wits, (as there hath been often in Times of Sedition and Civill War) for the most part, these latter carried away the Victory; and as long as men arrogate to themselves more Honour then they give to others, it cannot be imagined, how they can possibly live in Peace: and consequently we are to suppose, that for Peace sake, Nature hath ordained this Law, *That every man acknowledg other for his Fquall.* And the Breach of this Law, is that we call *Pride.*

2. As it was necessary that a man should not retain his Right to every thing, so also was it, that he should retain his right to some Things; to his own Body (for example) the Right of Defending, whereof he could not transfer; To the Use of Fire, water, Free Aire, and Place to live in, and to all things

neceſſary for Life. Nor doth the Law of Nature command any deveſting of other Rights, then of thoſe only which cannot be retained without the loſſe of Peace. Seeing then many Rights are retained, when we enter into peace one with another, Reaſon and the Law of Nature dictateth, *Whatſoever Right any man requireth to retain, he allow every other man to retain the ſame.* For he that doth not ſo, alloweth not the Equality mentioned in the former Section. For there is no acknowledgement of Worth, without attribution of the Equality of Benefit and Reſpect. And this allowance of *æqualia æqualibus*, is the ſame thing with the allowing of *Proportionalia Proportionalibus*. For when a man alloweth to every man a like, the allowance he maketh, will be in the ſame proportion, in which are the Numbers of men to whom they are made. And this is it men mean by *diſtributive Juſtice*, and is properly termed *Equity*. The Breach of this Law is that which the Greeks call πλεονεξία, which is commonly rendred *oveteouſneß*, but ſeemeth to be more preciſely expreſſed by the word *Incroaching*.

3. If there paſſe no other Covenant, the Law of Nature is, *That ſuch things as cannot be divided, be uſed in common, proportionably to the numbers of them that are to uſe the ſame, or without Limitation, when the Quantity thereof ſufficeth.* For firſt ſuppoſing the thing to be

be used in common, not sufficient for them, that are to use it without Limitation, if a few shall make more use thereof then the rest, that equality is not observed, which is required in the second Section. And this is to be understood, as all the rest of the Laws of Nature, without any other Covenant antecedent: for a man may have given away his Right of Common, and so the case be altered.

4. In those things which neither can be divided, nor used in common, the Rule of Nature must needs be one of these, *Lot*, or *Alternate use*: for besides these two wayes, there can no other equality be imagined; and for alternate Use, he that beginneth, hath the advantage; and to reduce that advantage to Equality, there is no other way but Lot. In things therefore indivisible and incommunicable, it is the Law of Nature, *That the use be alternate, or the Advantage given away by Lot*; because there is no other way of Equality. And Equality is the Law of Nature.

5. There be two sorts of Lots; One Arbitrary, made by men, and commonly knowne by the Names of *Lot*, *Chance*, *Hazard*, and the like; and there is *Natural Lot*, such as is *Primogeniture*, which is no more but the Chance, or Lot, of being first born, which it seemeth they considered, that call Inheritance by the name of *Kleronomia*, which sig-

nifieth *Distribution* by Lot. Secondly, *Prima occupatio*, first seizing, or finding of a thing whereof no man made Use before, which for the most part also is meerly *Chance*.

6. Although men agree upon these Laws of Nature, and endeavour to observe the same; yet considering the Passions of men, that make it difficult to understand by what actions, and circumstances of Actions, those Laws are broken, there must needs arise many great controversies about the Interpretation thereof, by which the peace must needs be dissolved, and men return again to their former estate of hostility. For the taking away of which Controversies, it is necessary that there be some common *Arbitrator* and *Judge*, to whose sentence, both the Parties to the Controversies ought to stand. And therefore it is a Law of Nature, *That in every Controversie, the Parties thereto ought mutually to agree upon an Arbitrator, whom they both trust, and mutually to covenant to stand to the Sentence he shall give therein.* For where every man is his own *Judge*, there properly is no Judg at all; as where every man carveth out his own right, it hath the same effect, as if there were no right at all: and where is no Judge, there is no End of Controversie. And therefore the Right of Hostility remaineth.

7. An *Arbitrator* therefore, or he that is Judge, is trusted by the Parties to any con-

troversie,

troverſie, to determine the ſame by the Declaration of his own Judgement therein. Out of which followeth firſt, that the Judge ought not to be concerned in the Controverſie he endeth; for in that caſe he is a Party, and ought by the ſame Reaſon to bee judged by another. Secondly, that he maketh no Covenant with either of the Parties, to pronounce ſentence for the One, more then for the Other. Nor doth he covenant ſo much, as that his ſentence ſhall be juſt; for that were to make the Parties Judges of the Sentence, whereby the Controverſie would remaine ſtill undecided. Nevertheleſſe for the Truſt repoſed in him, and for the Equality which the law of nature requireth him to conſider in the Parties, he violateth that Law, if for favour, or hatred to either party, he give other ſentence then he thinketh Right. And thirdly, that no man ought to make himſelf Judge in any Controverſie between others, unleſſe they conſent and agree thereto.

8. It is alſo the Law of Nature, *That no man obtrude or preſſe his Advice or Counſell to any man, that declareth himſelfe unwilling to hoare the ſame.* For ſeeing a man taketh Counſel concerning what is Good or Hurt of himſelf onely, and not of his Counſellor, and that Counſel is a Voluntary Action, and therefore tendeth alſo to the good of the Counſellor, there may be often iuſt cauſe to

ſuſpect the Counſellor: and though there be none, yet ſeeing Counſell unwillingly heard, is a needleſſe offence to him that is not willing to hear it, and offences tend all to the Breach of Peace, it is therefore againſt the Law of Nature to obtrude it.

9. A man that ſhall ſee theſe Lawes of Nature ſet down and inferred with ſo many words, and ſo much adoe, may think there is yet much more difficulty and ſubtilty required to acknowledge and do according to to the ſaid Laws in every ſudden occaſion, when a man hath but a little time to conſider. And while we conſider man in moſt paſſions, as of *Anger*, *Ambition*, *Coveteouſneß*, *Vain-Glory*, and the like, that tend to the excluding of natural Equality, it is true. But without theſe Paſſions, there an eaſie rule to know upon a ſudden, whether the Action I be to do, be againſt the Law of Nature, or not. And it is but this; *That a man imagine Himſelf in the Place of the Party with whom He hath to do, and reciprocally him in His.* Which is no more but a changing (as it were) of the Scales. For every mans Paſſion weigheth heavy in his owne Scale, but in the Scale of his Neighbour. And this Rule is very well knowne and expreſſed in this Old Dictate, *Quod tibi fieri non vis, alteri ne feceris.*

10. Theſe Lawes of Nature, the Sum whereof conſiſteth, in forbidding us to be our own Judges, and our own Carvers, and

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in commanding us to accommodate one another; In case they should be observed by some, and not by others, would make the Observers but a prey to them that should neglect them, leaving the good both without Defence against the Wicked, and also with a Charge to assist them: which is against the scope of the said Lawes, that are made only for the protection, and defence of them that keepe them. Reason therefore, and the Law of Nature over and above all these particular Lawes, doth dictate this Law in general, *That those particular Lawes be so far observed, as they subiect us not to any Incommodity, that in our owne Judgments may arise, by the neglect thereof in those towards whom we observe them*; and consequently requireth no more, but the Desire and constant Intention to endeavour, and be ready to observe them, unlesse there be cause to the contrary in other mens refusall to observe them towards us. The Force therefore of the Law of Nature, is not in *foro externo*, till there be security for men to obey it, but is alwaies *In foro interno*, wherein the Action of obedience being unsafe, the Will and Readiness to performe, is taken for the Performance.

11. Amongst the Lawes of Nature, Customes and Prescriptions are not numbred. For whatsoever Action is against Reason, though it be reiterated never so often, or

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that there be never so many Precedents thereof, is still against Reason, and therefore not a Law of Nature, but contrary to it. But consent and Covenant may so alter the Cases, which in the Law of Nature may be put by changing the Circumstances, that that which was Reason before, may afterwards be against it; and yet is Reason still the Law. For though every man be bound to allow equally to another, yet if that other shall see cause to renounce the same, & make himself inferior, then, if from thenceforth he consider him as inferior, he breaketh not thereby that Law of Nature, that commandeth to allow Equallity. In sum, *A mans owne Consent may abridge him of the liberty which the Law of Nature leaveth him, but customs not*; nor can either of them abrogate either these, or any other Law of Nature.

12. And forasmuch as Law (to speake properly) is a Command, and these Dictates as they proceed from Nature, are not Commands, they are not therefore called Laws, in respect of Nature, but in respect of the Author of Nature, God Almighty.

13. And seeing the Laws of Nature concern the Conscience, not he only breaketh them that doth any Action contrary, but also he whose action is conformable to them, incase he think it contrary. For though the Action chance to be right, yet in his Judgment he despiseth the Law.

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14. Every man by naturall paſſion, calleth that Good which pleaſeth him for the preſent, or ſo far forth as he can foreſee; and in like manner, that which diſpleaſeth him, Evil. And therefore he that foreſeeth the whole way to his Proſervation, (which is the End that every one by nature aymeth at,) muſt alſo call it good, and the contrary evil. And this is that Good and Evil, which not every man in paſſion calleth ſo, but all men by Reaſon. And therefore the fulfilling of all theſe Laws is Good in Reaſon, and the breaking of them Evill. And ſo alſo the habit, or diſpoſition, or intention to fulfill them Good; and the Neglect of them Evill. And from hence cometh that Diſtinction of *Malum Pœnæ*, and *Malum Culpæ*; for *Malum Pœnæ* is any pain or moleſtation of the Mind whatſoever; but *Malum Culpæ* is that action which is contrary to Reaſon, and the Law of Nature: As alſo the habit of doing according to theſe and other Laws of Nature, that tend to our preſervation, is that wee call *Virtue*, and the Habit of doing the contrary, *Vice*. As for Example, Juſtice is that Habit by which we ſtand to Covenants, Iniuſtice the contrary Vice; Equity that Habit by which we allow Equality of Nature, Arrogancy the contrary Vice; Gratitude the Habit whereby we requite the Benefit and truſt of others, Ingratitude the contrary Vice; Temperance the

Habit,

Habit, by which wee abſtain from all things that tend to our Deſtruction, Intemperance the contrary Vice; Prudence the ſame with Virtue in general. As for the common opinion, that Virtue conſiſteth in Mediocrity and Vice in extreames, I ſee no ground for it, nor can find any ſuch Mediocrity. Courage may be Virtue, when the Daring is Extream, if the Cauſe be Good; and extream fear no Vice, when the danger is Extream. To give a man more then his Due, is no iniuſtice, though it be to give him leſs: and in Gifts, it is not the ſum that maketh liberality, but the reaſon. And ſo in all other Virtues and Vices. I know that this Doctrine of Mediocrity is Ariſtole's, but his Opinions concerning Virtue and Vice, are no other then thoſe which were received then, and are ſtill by the generality of men, unſtudyed, and therefore not very likely to be accurate.

15. The Sum of Virtue is to be Sociable with them that will be Sociable, and Formidable to them that will not. And the ſame is the Sum of the Law of Nature: For in being Sociable, the Law of Nature taketh place by the way of Peace and Societie; and to be Formidable, is the Law of Nature in War, where to be feared is a Protection a man hath from his own Power: and as the former conſiſteth in Actions of Equity and Juſtice, the latter conſiſteth in Actions of Honour,

Honour. And Equity, Justice, and Honour, contain all virtues whatsoever.

CHAP. V.

A Confirmation out of holy Scripture of the principall points mentioned in the two last Chapters concerning the Law of Nature.

THe Lawes mentioned in the former Chapters, as they are called the Lawes of Nature, for that they are the Dictates of Naturall Reason, and also Morall Lawes, because they concern the Manners and Conversation, one towards another, so are they also Divine Lawes in respect of the Author thereof, God Almighty; and ought therefore to agree, or at least not to be Repugnant to the Word of God, revealed in Holy Scripture. In this Chapter therefore, I shall produce such places of Scripture, as appear to be most consonant to the said Lawes.

1. And first, the Word of God seemeth to place the Divine Law in Reason, by all such Texts as ascribe the same to the Heart and understanding; as Psal. 40. 8. *Thy Law is in my Heart:* Heb. 8. 10. *After those Dayes saith the Lord, I will put my Lawes in their Mind:* And Heb. 10. 16. The same Psal. 37. 31. speaking of the Righteous man he saith,

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The Law of God in his Heart, Psal. 19. 7, 8. *The Law of God is perfect, converting the soul. It giveth wisdome to the simple, and light unto the eyes.* Jer. 31. 33. I *will put my Law in their inward parts, and write it in their Hearts.* And Joh. 1. The Law-giver Himself, God Almighty, is called by the Name of λόγος, which is also called, ver. 4. *The Light of men.* And vers. 9. *The light which lighteth every man which cometh into the World.* All which are Descriptions of Naturall Reason.

3. And that the Law Divine, for so much as is Morall, are those Precepts which tend to Peace, seemeth to be much confirmed by such places of Scripture, as these, Rom 3. 17. Righteousnesse (which is the fulfilling of the Law) is called, *The way of Peace.* And Psa. 85. 10. *Righteousneß and Peace shall kiss each other.* And Matth. 5. 9. *Bleßed are the Peacemakers.* And *Heb.* 7. 2. *Melchisedeck King of Salem*, is interpreted *King of Righteousness*, and *King of Peace.* And ver. 21. Our Saviour Christ is said to be, *a Preist for ever after the order of Melchisedeck*: Out of which may be inferred, that the Doctrine of our Saviour Christ annexeth the Fulfilling of the Law to peace.

4. That the Law of Nature is unalterable, is intimated by this, that the Preisthood of *Melchisedeck* is everlasting; and by the Words of our Saviour, Matth. 5. 18. *Heaven and Earth, shall passe away, but one jot, or tittle*

uttle of the Law shall not passe till all things be fulfilled.

5. That Men ought to stand to their Covenants, is taught, Psal. 15. Where the Question being asked, vers. 1. *Lord, who shall dwell in thy Tavernacle*, &c. It is answered, vers. 4. *He that sweareth to his own hinderance, and yet changeth not.* And that men ought to be gratified, where no Covenant passeth, Deut. 25. 4. *Thou shalt not muzzle the Ox that treadeth out the Corn*, which S. *Paul*, 1 Cor. 9. 9. interpreteth not of Oxen but of Men.

6. That men content themselves with Equality, as it is the Foundation of Natural Law, so also is it of the second Table, of the Divine Law, Matth. 22 39. 40. *Thou shalt love thy Neighbour as thy self. On these two Laws depend the whole Law and the Prophets*; which is not so to be understood, as that a man should study so much his Neighbours profit as his own, or that he should divide his Goods amongst his Neighbours; but that he should esteem his Neighbour worthy all Rights and Priviledges that himself enjoyeth; and attribute unto him, whatsoever he looketh should be attributed unto himself: which is no more, but that he should be humble, meek, and content with Equality.

7. And that in Distributing of Right amongst Equalls, that Distribution is to be made

made according to the Proportions of the Numbers, which is the giving of *æqualia æqualibus*, & *proportionalia proportionalibus*; we have, Numb. 26. 53. 54. the Commandement of God to *Moses*; *Thou shalt divide the land according to the Number of Names; to many thou shalt give more, to few thou shalt give lesse, to every one according to his Number.* That Decision by Lot is a Means of Peace, Prov. 18. 18. *The lot causeth contention to cease, and maketh Partition among the Mighty.*

8. That the Accommodation and forgivenesse of one another, which have before been put for Lawes of Nature, are also Law Divine, there is no Question. For they are the Essence of Charity, which is the Scope of the whole Law, that we ought not to reproach, or reprehend one another, is the Doctrine of our Saviour, Matth. 7. 1. *Judge not that ye be not judged.* vers. 3. *Why seest thou the Mote that is in thy Brothers eye, and seest not the Beam that is in thine own eye?* Also the Law that forbiddeth us to presse out Councell upon others further then they admit, is a Divine Law. For after our Charity and desire to rectifie one another is rejected, to presse it farther, is to reprehend him, and condemn him, which is forbidden in the text last recited; as also Rom. 14. 12. *Every one of us shall give account of himself to God. Let us not therefore judge one another any more, but*

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use your Judgment rather in this, that no man put an occasion to fall, or a stumbling block before his Brother.

9 Farther, The Rule of men concerning the Law of Nature, *Quod tibi fieri non vis, alteri ne feceris*, is confirmed by the like, Matth. 7. 12. *Whatsoever therefore you would have men do unto you, that do you unto them: for this is the Law and the Prophets.* And Rom. 2. 1. *In that thou judgest another, thou condemnest thy self*, &c.

10. It is also manifest by the Scriptures, That these Laws concern only the Tribunall of our Conscience; and that the Actions contrary to them, shall be no farther punished by God Almighty, then as they proceed from Negligence, or Contempt. And first that these Lawes are made to the Conscience, appeareth, Matth. 5. 20. *For I say unto you, Except your Righteousnesse exceed the Righteousnesse of the Scribes and Pharisees, ye shall not enter into the Kingdome of Heaven.* Now the Pharisees were the most exact among the Jews in the external performance; they therefore must want the sincerity of Conscience; else could not our Saviour have requireda greater Righteousnesse then theirs. For the same Reason our Saviour Christ saith, *The Publican departed from the Temple justified rather then the Pharisee.* And Christ saith, his Yoke is easie, & his Burthen Light, which proceedeth from this, that Christ

Christ required no more then our best Endeavour. And Rom. 14. 23. *He that doubteth is condemned, if he eat.* And in innumerable places both in the Old and New Testament, God Almighty declareth, that he taketh the Will for the Deed, both in Good and Evill Actions. By all which it plainly appears, that the Divine Law is dictated to the Conscience. One the other side is no less plain; that how many and hainous actions soever a man commit through Infirmity, he shall nevertheless, whensoever he shall condemn the same in his own Conscience, be freed from the punishments that to such actions otherwise belong. For *at what time soever a sinner doth repent him of his sinns from the bottome of his Heart, I will put all his Iniquities out of my remembrance, saith the Lord.*

11. Concerning Revenge which by the Law of Nature ought not to aym (as I have sayd, Chap. 3. Sect 10.) at present delight, but future profit, there is some difficulty made, as if the same accorded not with the Law Divine, by such as obiect the continuance of punishment after the Day of Judgement, when there shall be no place, neither for amendment nor for example. This Obiection had been of some force, if such punishment had been ordained after all sinnes were past; but considering the punishment was instituted before sinne, it serveth to the benefit of Mankinde, because it keepeth men in

in peaceable and virtuous converſation by the terrour. And therefore ſuch Revenge was directed to the Future only.

12. Finally, There is no Law of Natural Reaſon that can be againſt the Law Divine: for God Almighty hath given Reaſon to a man to be a Light unto him. And I hope it is no Impiety to think, that God Almighty will require a ſtrict Account thereof, at the Day of Judgment, as of the Inſtructions which we were to follow in our Peregrination here, notwithſtanding the oppoſition and affronts of ſupernaturaliſts now adayes, to rationall and morall Converſation.

CHAP. VI.

1. *That men notwithſtanding theſe Lawes, are ſtill in the State of war, till they have ſecurity one againſt another.* 2. *The Law of Nature in war, is nothing but Honour.* 3. *No Security without the Concord of many.* 4. *That Concord of many cannot be maintained without power to keep them all in awe.* 5. *The cauſe why Concord remaineth in a multitude of ſome irrationall Creatures, and not of men.* 6. *That Union is neceſſary for the maintaining of Concord.* 7 *How union is made.* 8. *Body politick defined.* 9. *Corporation defined.* 10. *Soveraign Subiect defined.* 11. *Two ſorts of Bodies*

Politick

IN Chap. 12. Sect. 16. of the treatise of human Nature, it hath been shewed that the Opinions men have of the Rewards and Punishments which are to follow their Actions, are the Causes that make and govern the Will to those Actions. In this Estate of man therefore, wherein all men are equal, and every man allowed to be his own Judge, the Fears they have one of another are equal, and every mans hopes consist in his own sleight and strength: & consequently when any man by his natural passion, is provoked to break these Lawes of Nature, there is no security in any other man of his own Defence but *Anticipation*. And for this cause, every mans right (howsoever he be inclined to peace) of doing whatsoever seemeth good in his own eyes, remaineth with him still, as the necessary means of his Perservation. And therefore till there be security amongst men for the keeping of the Law of Nature one towards another, men are still in the Estate of war, and nothing is unlawfull to any man that tendeth to his own safety or Commodity: And this safety and commodity consisteth in the mutuall aydand Help of one another, whereby also followeth the mutuall Fear of one another.

2. It is a proverbiall saying, *Inter arma silent Leges*. There is little therefore to be said

said concerning the Lawes that men are to observe one towards another in Time of War, wherein every mans Being and Well-being is the rule of his Actions. Yet thus much the Law of Nature commandeth in War, that men satiate not the cruelty of their present Passions, whereby in their own Conscience they foresee no benefit to come. For that betrayeth not a necessity, but a disposition of the mind to war, which is against the Law of Nature. And in old Time we read, that Rapine was a Trade of life, wherein nevertheless many of them that used it, did not only spare the lives of those they invaded, but left them also such things, as were necessary to preserve that life which they had given them; as namely, their Oxen and Instruments for Tillage, though they carried away all their other Cattel and substance. And as the Rapine it self was warranted in the Law of Nature, by the want of security otherwise to maintain themselves, so the exercise of cruelty was forbidden by the same Law of Nature, unless Fear suggested any thing to the contrary. For nothing but Fear can justifie the taking away of anothers life. And because Fear can hardly be made manifest, but by some Action dishonorable, that bewrayeth the Conscience of ones own Weakness, all men, in whom the Passion of Courage or Magnanimity hath been Predominant, have abstained

ed from cruelty, insomuch, that though there be in War no Law, the breach wherof is Injury, yet there are in War those Lawes the breach whereof is dishonour. In one word therefore, the only Law of Actions in War, is *Honour*, and the Right of War, *Providence*.

3. And seeing Natural ayd is necessary for Defence, as mutual fear is necessary for Peace, wee are to consider how great Ayds are required for such Defence, and for the causing of such mutual fear, as men may not easily adventure on one another. And first it is evident, that the mutual Ayd of two or three men is of very little security. For the odds on the other side, of a man or two, giveth sufficient encouragement to an assault. And therfore before men have sufficient security in the help of one another, their number must be so great, that the Odds of a few which the enemie may have, be no certaine and sensible advantage.

4. And supposing how great a number soever of men assembled together for their mutual defence, yet shall not the effect follow, unless they all direct their Actions to one and the same End; which direction to one and the same End is that, which Chap. 12. Sect. 7. is called *Consent*. This *consent* (or concord) amongst so many men, though it may be made by the fear of a present Invader, or by the hope of a present Conquest, or Bootie, and endure as long as that action

action endureth, nevertheless, by the Diversity of Judgements and Passions in so many men contending naturally for honour and advantage one above another; it is impossible, not only that their consent to ayd each other against an enemie, but also that the Peace should last between themselves, without some mutual and common fear to rule them.

5. But contrary hereunto may be objected, the experience we have of certain living Creatures irrational, that nevertheless continually live in such good Order and Government for their common benefit, and are so free from Sedition & War amongst themselves, that for Peace, Profit, and Defence, nothing more can be imaginable. And the Experience we have in this, is in that little Creature the Bee, which is therefore reckoned amongst *Animalia Politica*. Why therefore may not men that foresee the Benefit of Concord, continually maintain the same without compulsion, as well as they? To which I answer, That amongst other living Creatures, there is no Question of Precedence in their owne Species, nor strife about Honour, or acknowledgement of one anothers wisdome, as there is amongst Men, from whence arise Envie and Hatred of one towards another, and from thence Sedition and War. Secondly, those living Creatures aim every one at Peace, and Food common

to them all; Men aym at Dominion, Su-
riority, and private wealth, which are distin
in every man, and breed Contention. Thir
ly, those living Creatures, that are witho
Reason, have not learning enough to esp
or to think they espy any defect in the G
vernment; and therefore are content
therewith. But in a multitude of men, the
are alwaies some that think themselves wi
then the rest, and strive to alter what th
think amiss, and divers of them strive to al
divers wayes, and that causeth War. Fourt
ly, they want Speech, and are therefore u
able to instigate one another to Faction,
which men want not. Fifthly, they hav
no conception of Right and Wrong, b
only of Pleasure and Pain, and therefore
so no censure of one another, nor of th
Commander, as long as they are themselv
at ease; whereas men that make themselv
Judges of Right and Wrong, are then le
at quiet, when they are most at ease. Li
ly, Natural Concord, such as is amon
those Creatures, is the work of God by
way of Nature; but Concord amongst m
is artificial, and by way of Covenant. A
therefore no wonder, if such irrational C
tures as govern themselvs in Multitude,
it much more firmly then Mankind, that
it by Arbitrary Institution.

6. It remaineth therefore still, that C
sent (by which I understand the Cone
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rence of many mens Wils to one Action) is not sufficient Security for their common Peace, without the erection of some common Power, by the feare whereof, they may be compelled both to keep the Peace amongst themselves, and to joyn their strengths together, against a common Enemy. And that this may be done, there is no way imaginable, but only Union, which is defined, Chap. 12. Sect. 8. to be the involving, or including the Wils of many in the Wil of one man, or in the Will of the greatest part of any one number of men, that is to say, in the Will of one Man, or of one *Councel*. For a Councel is nothing else, but an *Assembly* of men deliberating concerning something common to them all.

7. The making of Union consisteth in this, That every man by Covenant oblige himself to some One, and the same man, or to some one and the same Councel, by them all named and determined, to do those actions, which the said man or Councell shall command them to do, and to do no action which He or They shall forbid, or command them not to do. And farther, in case it be a Councel, whose commands they covenant to obey, that then also they covenant, that every man shall hold that for the command of the whole Councel, which is the command of the greater part of those men, whereof such Councel consisteth. And though

The Will of Man being voluntary, but the Beginning of Voluntary actions, is not subject to Deliberation and Covenant, yet when a man covenanteth to subject his Will to the command of another, he obligeth himself to this, that he resigne his strength and meanes to him, whom he covenanteth to obey. And hereby he that is to command, may by the use of all their means & strength, be able by the terrour thereof, to frame the Will of them all to Unity and Concord, amongst themselves.

8. This Union so made, is that which men call now adayes, *A Body Politick*, or Civil Society and the Greeks call it πόλις, that is to say, a City, which may be definedto be a multitude of men, united as one Person, by a common power, for their common Peace, Defence and Benefit.

9 And as this Union into a City or Body Politick, is instituted with common Power over all ther particular Persons, or Members thereof, to the common good of them all, so also may there be amongst a multitude of those Members instituted, a subordinate Unionof certain men, for certain common actionstobe don by those men for some common Benefit of theirs, or of the whole City; as for subordinate Government, for Counsell, for Trade, and the like. And these Subordinate Bodies Politick are usually called *Corporations*; and their power such over the

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particulars of their own Society, as the whole City whereof they are Members have allowed them.

10. In all Cities, or Bodies politick not Subordinate, but Independent, that One man, or one Conncell, to whom the particular Members have given that common Power, is called their *Soveraign*, and his power the Soveraign power; which consisteth in the power and the strength, that every of the Members have transferred to him from themselves by Covenant And because it is impossible for any man really to transfer his own strength to another, or for that other to receive it, it is to be understood, that to transfer a mans power and strength, is no more, but to lay by or relinquish his own Right of Resisting him to whom he so transferreth it. And every Member of the Body Politick, is called a *Subiect*, to wit, to the *Soveraign*.

11. The cause in generall, which moveth a man to become subiect to another, is (as I have sayd already) the fear of not otherwise preserviug himself. And a man may subiect himself to him that invadeth, or may invade him, for fear of him; or men may joyne amongst themselves, to subject themselvs to such as they shall agree upon for fear of others, and when many men subject themselves the former way, there ariseth thence

a Body politick, as it were naturally. From whence proceedeth *Dominion, Paternal,* and *Despotique*. And when they subiect themselves the other way, by mutual agreement amongst many, the Body politick they make, is for the most part called a Common Wealth in distinction from the former, though the name be the generall name for them both. And I shall speak in the first place of Common wealths, and afterward of Bodies politick, Patrimoniall, and despotical.

The Second part.

CHAP. I.

1. *Introduction.* 2. *A Multitude before their union,* &c. 3. *Expresse Consent of every particular,* &c. 4. *Democratical, Aristocratical, Monarchiall union, may be instituted for ever, or,* &c. 5. *Without security no private Right relinquished.* 6. *Covenants of Government without Power of Coertion are no Security.* 7. *Power coercive,* &c. 8. *The Sword of War,* &c. 9. *Decision in all Debates* &c. *annexed to the Sword.* 10. *Laws Civil,* &c. 11. *Appointment of Magestrates,* &c.

&c. 12. *Soveraign Power includeth Impunity.* 13. *A supposed Common Wealth, where Lawes are made first, and the Common-wealth after.* 14. *The same refelled.* 15. *Mixt Formes of Government supposed in Soveraignty.* 16. *That refelled.* 17. *Mixt Government,* &c. 18. *Reason and Experience to prove absolute Soveraignty somewhere in all Common Wealths.* 19. *Some principal,* &c. *marks of Soveraignty.*

IN that Treatise of humane nature which was formerly printed, hath been wholly spent in the consideration of the naturall power, and the Natural Estate of Man, namely, of his cognition and Passions in the first eleven Chapters, and how from thence proceed his Actions; in the Twelfth, how men know one anothers minds: In the last, in what Estate Mens passions set them. In the first Chapter of this Treatise, what Estate they are directed unto by the Dictates of reason, that is to say, what be the principall Articles of the Law of Nature, in the 2. 3. 4. 5. And lastly, how a multitude of persons Naturall, are united by Covenants into one person civil, or Body Politick. In this part therefore shall be considered, the Nature of a Body politick, and the Lawes thereof, otherwise called Ci-

vill Laws. And whereas it hath been sayd in the last Chapter, and last Section of the former part, that there be two wayes of erecting a Body politick; One by Arbitrary Institution of many men assembled together which is like a creation out of nothing by humane Wit; the other by Compulsion, which is as it were a Generation thereof out of natural force; I shall first speak of such erection of a Body politick, as proceedeth from the Assembly and consent of a Multitude.

2. Having in this place to consider, a multitude of men about to unite themselves into a Body politick, for their security, both against one another, and against common Enemies, and that by Covenants, the knowledge of what Covenants they must needs make, dependeth on the Knowledge of the persons, and the knowledge of their end. First, for their persons they are many, and (as yet) not one; nor can any Action done in a multitude of People met together, be attributed to the multitude, or truly called the Action of the multitude, unless every mans Hand, and every mans Will, (not so much as one excepted) have concurred thereto. For Multitude, though in their persons they run together, yet they concur not alwaies in their Designes. For even at that time when men are in tumult, though they agree a number of them to one mischeife, and a num-

nuuber of them to one another; yet in the whole, they are amongst themselves in the state of Hostility, and not of Peace; like the seditious Jews besieged in *Jerusalem*, that could joyn against their enemies, and fight amongst themselves. Whensoever therefore any man saith, that a number of men hath done any Act, it is to be understood, that every particular man in that number hath consented therunto, and not the greatest part only. Secondly, Though thus assembled with intention to unite themselves, they are yet in that Estate in which every man hath right to every thing, and consequently as hath been sayd, Chap. 1. Sect. 10. in an Estate of inioying nothing. And therefore *Meum* & *Tuum*, hath no place amongst them.

3. The first thing therefore they are to do is expresly, every man to consent to something by which they may come neer to their Ends, which can be nothing else imaginable, but this, that they allow the Wills of the maior part of their whole number, or the Wills of the maior part of some certain number of men by them determined and named; or lastly, the Will of some one man, to involve and be taken for the Wills of every man. And this done they are united, and a Body *Politick*. And if the maior part of their whole Number be supposed to involve the Wills of all the particulars, then

volve the wills of the particulars, then are they said to be a *Democracie*, that is to say, a Government wherein the whole Number, or so many of them as please, being assembled together, are the Soveraign, and every particular man a Subject. If the major part of a certain number of men named or distinguished from the rest, be supposed to involve the wills of every one of the particulars, then are they said to be an *Oligarchy*, or *Aristocracy*, which two words signifie the same thing, together with the divers Passions of those that use them. For when the men that be in that Office please, they are called an Aristocracy, or otherwise an Oligarchy, where in those the major part of which declare the Wills of the whole multitude being assembled, are the Soveraign, and every man severally a Subject. Lastly, if their Consent be such, that the Will of one man whom they name, shall stand for the Wills of them all, then is their Government or Union called a *Monarchy*, and that one man a Soveraign, and every of the rest a Subject.

4. And those several sorts of Unions, Governments, and Subjections, of Mans Will may be understood to be made, either absolutely, that is to say, for all future time, or for a time limited only. But forasmuch as we speak here of a Body politick, instituted for the perpetuall Benefit and defence of them

them that make it; which therefore men desire should last for ever, I will omit to speak of those that be temporary, and consider of those that be for ever.

5. The end for which one man giveth up, and relinquisheth to another, or others the right of protecting & defending himself by his own power, is the security which he expecteth thereby, of protection and defence from those to whom he doth so relinquish it; and a man may then account himself in the estate of security, when he can foresee no violence to be done unto him, from which the Doer may not be deterred by the power of that Soveraign, to whom they have every one subiected themselves: and without that security, there is no reason for a man to deprive himself of his own Advantages, and make himself a prey to others. And therefore when there is not such a Soveraign power erected, as may afford this security, it is to be understood that every mans right of doing whatsoever seemeth good in his own eyes, remaineth still with him; and contrarywise, where any Subiect hath right by his own Judgment and discretion, to make use of his force, it is to be understood that every man hath the like, and consequently that there is no Common Wealth at all established. How far therefore in the making of a Common Wealth, man subiecteth his Will to the power of others, must

appear

appear from the End, namely, Security. For whatsoever is necessery to be by Covenant transferred for the attaining thereof, so much is transferred, or else every man is in his natu rall Liberty to secure himself.

6. Covenants agreed upon by every man assembled for the making of a Common Wealth; and put in writing without erecting of a power of Coercion, are no reasonable Security for any of them that so covenant, nor are to be called Laws, and leave men still in the Estate of Nature and Hostility. For seeing the Wills of most men are governed only by Fear, and where there is no power of Coercion, there is no Fear, the Wills of most men will follow their Passions of Covetousness, Lust, Anger, and the like, to the breaking of those Covenants, whereby the rest also, who otherwise would keep them, are set at liberty, and have no Law, but from themselves.

7. This power of Coercion as hath been sayd, Chap. 2. Sect. 3. of the former part consisteth in the transferring of every mans right of Resistance against him, to whom he hath transferred the Power of Coercion. It followeth therefore, that no man in any Common Wealth whatsoever hath right to resist him, or them, on whom they have transferred this Power Coercive, or (as men use to call it the Sword of Justice, supposing the not Resistance possible. For part 1.

Chap.

Chap. 2. Sect. 18. Covenants bind but to the utmost of our endeavour.

8. And forasmuch as they who are amongst themselves in security, by the means of this Sword of Justice, that keep them all in awe, are nevertheless in danger of enemies from without, if there be not some means found, to unite their Strengths and natural forces, in the resistance of such enemies, their peace amongst themselves is but in vain. And therefore it is to be understood as a Covenant of every Member, to contribute their several forces fore the Defence of the whole, whereby to make one power as sufficient, as is possible for their Defence. Now seeing that every man hath already transferred the use of his strength to him, or them, that have the Sword of Justice, it followeth, that the Power of Defence, that is to say, the Sword of war, be in the same Hands, wherein is the Sword of Justice; and consequently those two Swords are but One, and that inseperably and essentially annexed to the Soveraign Power.

9. Moreover, seeing to have the Right of the Sword, is nothing else but to have the use thereof depending onely on the Judgement and discretion of Him or Them that have it, it followeth, that the Power of Indenture in all Controversies, wherein the Sword of Justice is to be used; and in all deliberations concerning War, (wherein the

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Use of that Sword is required) the right of Resolving and determining what is to be done, belong to the same Soveraign.

10. Farther, considering it is no less, but much more necessary to prevent Violence & Rapine, then to punish the same when it is committed, & all violence proceedeth from Controversies that arise between men concerning *Meum* & *Tuum*, Right and Wrong, Good and Bad, and the like which men use every one to measure by their own Judgements, it belongeth also to the Judgment of the same Soveraign Power, to set forth and make known the common measure by which every man is to know what is his, and what anothers; what is good and what bad, and what he ought to do and what not, and to command the same to be observed. And these measures of the Actions of the Subiects are those, which men call *Laws politick*, or Civil. The making whereof, must of right belong to him that hath the power of the Sword, by which men are compelled to observe them; for otherwise they should be made in vain.

11. Farthermore, seeing it is impossible that any one man that hath such Soveraign Power, can be able, in person, to hear and determine all Controversies, to be present at al deliberations concerning common good, and to execute and perform all those common actions that belong thereunto, whereby there

there will be neceſſity of Magiſtrates, and Miniſters of publique affaires; it is conſequent that the appointment, nomination, & limitation of the ſame be underſtood, as an inſeperable part of the ſame ſoveraignty, to which the ſum of all iudicature, and execution hath been already annexed.

12. And foraſmuch as the right to uſe the forces of every particular member, is tranſferred from themſelves, to their ſoveraign, a man will eaſily fall upon this concluſion of himſelf, that to ſoveraign power (whatſoever it doth) there belongeth Impunity.

13. The ſum of theſe Rights of Soveraignty; namely the abſolute uſe of the Sword in Peace and War, the making and abrogating of Laws, *Supream, Judicature, & Deciſion*, in all Debate iudiciall and deliberative, the nomination of all Magiſtrates, and Miniſters, with other Rights contained in the ſame, make the ſoveraign power no leſs abſolute in the common-wealth, then before Common-wealth, every man was abſolute in himſelf, to do, or not to do, what he thought good; which men that have not had the experience of that miſerable eſtate, to which men are reduced by long War, think ſo hard a condition, that they can not eaſily acknowledge ſuch covenants, and ſubiection on their parts, as are here ſet down to have been ever neceſſary to their peace. And therefore ſome have imagined that a Common-Wealth may be

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constituted in such manner as the Soveraign Power may be so limited, and moderated, as they shall think fit themselves. For Example; They suppose a Multitude of men to have agreed upon certain Articles, (which they presently call Lawes) declaring how they will be governed, and that done, to agree farther upon some man, or number of men, to see the same Articles performed, and put in execution; and to enable Him, or Them thereunto, they allot unto them a Provision limited, as of certain Lands, taxes, Penalties, and the like then, which (if mispent) they shall have no more, without a new Consent of the same men that allowed the former. And thus they think they have made a Common Wealth, in which it is unlawfull for any private man to make use of his owne Sword for his Security; wherein they deceive themselves.

14. For first, if to the Revenue, it did necessarily follow, that there might be Forces raised and procured at the Will of him that hath such Revenue, yet since the Revenue is limited, so must allothe Forces: b t limited Forces against the Power of an Enemy, which wee cannot limit, are unsufficient. Whensoever therefore there happeneth an Invasion greater then those Forces are able to resist, and there be no other right to levy more, then is every man by Necessity

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of Nature, allowed to make the best provision he can for himself; and thus is the Private Sword, and the estate of War again reduced. But seeing Revenue, without the right of commanding men, is of no use, neither in Peace nor War, it is necessary to be supposed, that he that hath the Administration of those Articles, which are in the former Section supposed, must have also right to make use of the strengths of particular men. And what reason soever giveth him that right over any one, giveth him the same over all. And then is his Right absolute. For he that hath Right to all their Forces, hath right to dispose of the same. Again, supposing those limited forces and Revenue, either by the necessary, or negligent use of them to fail, and that for a supply the same multitude be again to be assembled, who shall have power to assemble them, that is to compel them to come together? If he that demandeth the supply, hath that Right, to wit, the right to compell them all, then is his Soveraignty absolute; if not, then is every particular man at liberty to come, or not; to frame a new Common wealth, or not, and so the right of the private Sword returneth but suppose them willingly, and of their own accord assembled to consider of this supply, if now it be stil in their choice, whether they shall give it, or not, it is also in their choice, whether the Common Wealth shall stand, or

not,

not. And therefore there lieth not upon any of them any civil Obligation that may hinder them from using force, in case they think it tend to their defence. This Device therefore of them that will make Civil Laws first, and then a Civil Body afterwards (as if Policy made a Body Politick, and not a Body Politick made Policy) is of no effect.

15. Others, to avoid the hard condition, as they take it, of absolute subiection (which (in hatred thereto) they also call slaverie) have despised a Government, as they think, mixed of three sorts of Soveraignty. As for Example; They suppose the power of making Laws, given to some great Assembly Democratical, the Power of Judicature to some other Assembly, and the Administration of the Laws to a Third, or to some one Man; and this Policy they call mixt Monarchy, or mixt Aristocracy, or mixt Democracy, according as any of these three sorts do most visibly predominate. And in this estate of Government, they thinke the use of the Private Sword excluded.

16. And supposing it were so, How were this condition which they call *slavery*, eased thereby. For in this Estate they would have no man allowed, either to be his own Judge, or own Carver, or to make any Lawes unto himself; and as long as these three agree they are as absolutely subject to them, as is

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a Child to the Father, or a Slave to the Master, in the ſtate of Nature. The caſe therefore of this Subjection, muſt conſiſt in the diſagreement of thoſe amongſt whom they have diſtributed the rights of ſoveraign power. But the ſame Diſagreement is War. The diviſion therefore of the Soveraignty, either worketh no effect to the taking away of ſimple Subjection, or introduceth War, wherein the private Sword hath place againe. But the Truth is, as hath been already ſhewed in 7, 8, 9, 10, 11, 12. precedent Sections, the Soveraignty is indiviſible. And that ſeeming mixture of ſeverall kinds of Government, not mixture of the things themſelves, but Confuſion in our underſtandings, that cannot find out readily to whom we have ſubiected our ſelves.

17. But though the Soveraignty be not mixt, but be alwaies, either ſimple Democracy, or ſimple Ariſtocracy, or pure Monarchy, nevertheleſs in the Adminiſtration thereof, all thoſe ſorts of government may have place ſubordinate. For Suppoſe the Soveraign power be Democracy, as it was ſometimes in *Rome*, yet at the ſame time they may have a Counſel Ariſtocratical, ſuch as was the Senate; and at the ſame time they may have a Subordinate Monarch, ſuch as was their Dictator, who had, for a time, the exerciſe of the whole Soveraignty, & ſuch as are all Generals in war. So alſo in Monarchy there

there may be a Councel Aristocratical of men, chosen by the Monarch, or Democratical of men chosen by the consent (the Monarch permitting) of all the particular men of the Common Wealth. And this mixture is it that imposeth, as if it were the mixture of soveraignty. As if a man should think, because the great Councel of *Venice* doth nothing ordinarily but choose Magistrats, Ministers of State, Captains, and Governours of Towns, Ambassadors, Councellors, and the like, that therefore their part of the soveraigt , is only chusing of Magistrates: & that the making of War, and Peace, and Laws were not theirs, but the part of such Counsellors as they appointed thereto; wheras it is the part of these to do it but subordinately, the supream authority therof being in the Great Councel that chuse them.

18. And as Reason teacheth us, that a man considered out of subjection to Lawes, and out of all Covenants obligatory to others, is free to do and undo, and deliberate as long as he listeth; every member being obedient to the Will of the whole man, that Liberty being nothing else but his naturall Power, without which he is no better then an inanimate Creature, not able to help himself; so also it teacheth us, that a Body politick, of what kind soever, nor subiect to another, nor obliged by Covenants, ought to be free, and in all actions to be assisted by the

the members, every one in their place, or at least, not resisted by them. For otherwise, the power of a Body politick (the Essence whereof, is the not resistance of the Members) is none, nor a Body politick of any Benefit. And the same is confirmed by the use of all Nations and Common-Wealths, wherein that man or Councel which is virtually the whole, hath any absolute power over every particular member; or what Nation or Common-Wealth is there, that hath not power and Right to constitute a General in their wars? But the power of a General is absolute; and consequently there was absolute power in the Common Wealth, from whom it was derived. For no person, natural or civill, can transfer unto another more power then himself hath.

19. In every Common VVealth, where particular men are deprived of their Right to protect themselves there resideth an Absolute Soveraignty; as I have already shewed. But in what man, or in what Assembly of men the same is placed, is not so manifest, as not to need some Marks, whereby it may be discerned. And first, it is an infallible mark of absolute Soveraignty in a man or in an Assembly of men, if there be no Right in any other person, Naturall or Civil, to punish that man, or to dissolve that Assembly. For he that cannot of right be punished, cannot of Right be resisted; and he that cannot

of

of right be resisted, hath coercive power over all the rest, and thereby can frame and govern their Actions at his pleasure, which is absolute soveraignty. Contrariwise, he that in a Common-Wealth is punishable by any, or that Assembly that is dissolvable, is not soveraign. For a greater power is always required to punish and dissolve, than them who are punished or dissolved; and that Power cannot be called Soveraign, than which there is a greater. Secondly, that man or Assembly, that by their own right not derived from the present right of any other, may make Laws, or abrogate them at his or their pleasure, have the Soveraignty absolute. For seeing the Laws they make, are supposed to be made by right, the Members of the Common Wealth to whom they are made, are obliged to obey them, and consequently not resist the Execution of them, which not resistance, maketh the power absolute of him that ordaineth them. It is likewise a mark of this soveraignty, to have the Right Originall of appointing Magistrates, Judges, Councellors, and Ministers of State. For without that Power, no Act of Soveraignty or Government can be performed. Lastly, and generally, whosoever by his own authority independent, can do any act, which another of the same Common Wealth may not, must needs be understood to have the soveraign power. For by Nature men have

equal

equal Right. This Inequality therefore must proceed from the Power of the Common-Wealth. He therefore that doth any Act lawfully by his owne Authority, which another may not, doth it by the Power of the Common-wealth in himself, which is Absolute Soveraignty.

CHAP. II.

1. *Democracy precedeth all other,* &c. 2. *The Soveraign people covenanteth not with the Subiects.* 3. *The Soveraign,* &c. *cannot,* &c. *do iniury,* &c. 4. *The faults of the Soveraigne People,* &c. 5 *Democraty,* &c. *an Aristocracy of Orators.* 6. *Aristocracy how made.* 7. *The Body of the Optimates not properly said to iniure the Subiects.* 8. *The Election of the Optimates,* &c. 9. *An Elective King,* &c. 10. *A Conditional King,* &c. 11. *The word People Equivocal.* 12. *Obedience discharged by Release.* 13. *How such Releases are to be understood.* 14. *Obedience discharged by Exile.* 15. *By Conquest.* 16. *By ignorance of the Right of Succession.*

HAving spoken in generall concerning instituted Policy in the former Chapter, I come in this, to speak of the sorts thereof in special, how every of them is instituted. The first in order of time of these three sorts, is Democracy; and it must be so of necessity, because an Aristocracy and a Monarchy, require

require nomination of persons agreed upon, which agreement in a great multitude of men must consist in the consent of the major part; and where the Votes of the maior part involve the votes of the rest, there is actually a democracie.

2. In the making of a Democracie, there passeth no Covenant between the Soveraign and any Subiect. For while the Democracy is a making, there is no Soveraign with whom to contract. For it cannot be imagined, that the Multitude should contract with it self, or with any one man, or number of men parcell of it self, to make it self Soveraign nor that a mulritude considered as One Aggregate, can give it self any thing which before it had not. Seeing then that Soveraignty Democraticall is nat conferred by the Covenant of any multitude, which supposeth Union and Soveraiguty already made; it resteth that the same be conferred by the particular Covenants of evry several man, that is to say, every man with every man, forand in consideration of the Benefit of his own Peace and Defence, covenanteth to stand to and obey whatsoever the maior part of their whole number, or the Maior part of such a number of them, as shall be pleased to assemble at a cettain time and place, shall determine and command. And this is that which giveth being to a Democracy, wherein the soveraign Assembly was called

called of the Greeks, by the name of *Demus*, (that is, the People) from whence cometh Democracy. So that, where to the ſupreame and Independent Court, every man may come that will and give his vote, there the Soveraign is called the People.

3. Out of this that hath been ſayd, may readily be drawn, that whatſoever the People doth to any one particular Member or Subject of the Common Wealth, the ſame by him ought not to be ſtiled Iniury. For firſt Iniury (by the Definition, Part 1. Chap. 3. Sect. 2.) is Breach of Covenant; but Covenants (as hath been ſaid in the precedent Section) there paſſed none from the People to any private man; and conſequently (to wit the People) can do him no Iniury. Secondly, how uniuſt ſoever the action be, that this Soveraigne *Demus* ſhall do, is done by the will of every particular man ſubiect to him, who are therefore guilty of the ſame. If therefore they ſtile it *Iniury*, they but accuſe themſelves. And it is againſt Reaſon for the ſame man, both to do and complain, implying this Contradiction, that whereas he firſt ratified the Peoples Acts in general, he now diſalloweth the ſame of them in particular. It is therefore ſaid truly, *Volenti non fit Injuria*. Nevertheleſs nothing doth hinder but that divers Actions done by the people may be uniuſt before God Almighty, as Breaches of the Law of Nature.

4. And when it hapneth, that the People by plurality of voices, that decree or command any thing contrary to the Law of God or Nature, though the Decree and Command be the act of every man, not only present in the assembly, but also absent from it, yet is not the Iniustice of the Decree, the Iniustice of every particular man, but only of those men, by whose expres-sufferages the Decree or Command was passed. For a Body politick, as it is a Fictious Body, so are the Faculties and will thereof Fictious also. But to make a particular man iniust which consisteth of a Body and Soul natural, there is required a Naturall and very Will.

5. In all Democracies, though the Right of Soveraignty be in the Assembly which is virtually the whole Body, yet the use thereof is alwaies in one, or a few particular men. For in such great Assemblies, as those must be, whereinto every man may enter at his pleasure, there is no means any waies to deliberate and give Councel what to do but by long and set Orations, whereby to every man there is more or less hope given to incline & sway the Assembly to their own Ends. In a multitude of speakers therefore where alwaies either one is eminent alone, or a few being equal amongst themselvs are eminent above the rest, that one or few must of necessity sway the whole. Insomuch

much that a Democracy, in effect is no more then an Aristocracy of Orators, interrupted sometimes with the temporary Monarchy of one Orator

6. And seeing a Democracy is by Institution, the beginning both of Aristocracy and Monarchy, we are to consider next, how Aristocracy is derived from it. When the particular Members of the Common Wealth growing weary of attendance at publick Courts, as dwelling far off, or being attentive to their private Businesses, and withall, displeased with the Government of the People, assemble themselves to make an Aristocracy, there is no more required to the making thereof, but putting to the Question one by one, the Names of such men as it shall consist of, and assenting to their Election; and by plurality of Vote to transfer that power, which before the People had, to the number of men so named and chosen.

7. And from this manner of erecting an Aristocracy, it is manifest, that the Few, or Optimates, have entred into no Covenant with any of the particular Members of the Common Wealth, whereof they are Soveraign; and consequently cannot do any thing to any private man, that can be called Injury to him, how soever their act be wicked before Almighty God, according to that which hath been said before Sect. 3. Farther

it is impossible, that the People, as one Body Politick, should covenant with the Aristocracy or Optimates, on whom they intend to transfer their Soveraignty. For no sooner is the Aristocracy erected, but the Democracy is annihilated, and the Covenants made unto them void.

8. In all Aristocracies the Admission of such as are from time to time to have Vote in the soveraign assembly, dependeth on the Will and Decree of the present Optimates. For they being the Soveraign, have the nomination (by the 11. Section of the former Chapter) of all Magistrates, Ministers, and Counsellors of State whatsoever, and may therefore chuse either to make them elective, or hereditary, at their pleasure.

9. Out of the same Democracy, the Institution of a Political Monarch proceedeth in the same manner, as did the Institution of the Aristocracy, to wit, by a Decree of the Soveraign People, to passe the Soveraignty to One Man named and approved by Plurality of Suffrage. And if this Soveraignty be truly and indeed transferred, the Estate of Common-Wealth is an absolute Monarchy, wherein the Monarch is at liberty, to dispose as well of the Succession, as of the Possession, and not an Elective Kingdome. For suppose a Decree be made first in this manner, That such a One shal have the Soveraignty for his life, and that afterward they will chuse a new

In this Case, the Power of the People is dissolved, or not; if dissolved, then after the Death of him that is chosen, there is no man bound to stand to the Decrees of them that shall, as Private men, run together to make a new Election; and consequently, if there be any man, who by the advantage of the Raign of Him that is dead, have strength enough to hold the multitude in Peace and Obedience, he may lawfully, or rather is by the Law of Nature obliged so to do; if this power of the people were not dissolved at the chusing of their King for life, then is the people Soveraign still, and the King a Minister thereof only, but so, as to put the whole Soveraignty in Execution, A Great Minister, but no otherwise for his time, then a Dictator was in *Rome*. In this case at the death of him that was chosen, they that meet for a new Election, have no new, but their old Authority for the same. For they were the Soveraign all the time, as appeareth by the Acts of those Elective Kings, that have procured from the People, that their children might succeed them. For it is to be understood, when a man receiveth any thing from the Authority of the people, he receiveth it not from the People his Subiects, but from the people his Soveraign. And farther though in the Election of a King for his life, the People grant him the Exercise of their So-

raignty for that time; Yet if they see cause they may recall the same before the Time. As a Prince that conferreth an Office for life, may nevertheless upon suspition of Abuse thereof, recall it at his pleasure; in as much as Offices that require labour and care, are understood to passe from him that giveth them, as *Onera*, *Burthens*, to them that have them; the recalling whereof are therefore not *Injury*, but *Favour*. Nevertheless if in making an Elective King, with Intention to reserve the Soveraignty, they reserve not a Power at certaine known and determined times and places to assemble themselves, the reservation of their Soveraignty is of no effect, in as much as no man is bound to stand to the Decrees and Determinations of those that assemble themselves without the Soveraign Authority.

10. In the former Section is shewed, that elective Kings that exercise their Soveraignty for a Time, which determines with their Life, either are Subjects, or not Soveraigns; And that it is, when the people in Election of them, reserve unto themselves the right of Assembling at certaine times and places limited and made known; Or else Absolute Soveraigns to dispose of the Succession at their Pleasure, and that is, when the people in their Election have declared no time nor place of their meeting, or have left it to the power

power of the Elected King, to assemble and dissolve them at such times as he himselfe shall think good. There is another kind of Limitation of time to him that shal be elected to use the Soveraign Power, (which whether it hath been practiled any where, or not I know not, but it may be imagined, and hath been obiected against the Rigor of Soveraign Power) and it is this, that the People transfer their Soveraignty upon Conditions. As for Example, for so long as he shall observe such and such Lawes, as they then prescribe him. And here as before in elected Kings, the Question is to be made, whether in the Electing of such a Soveraign, they reserved to themselves a right of Assembling at times and places limited and known, or not; if not, then is the Soveraignty of the People dissolved, and have neither power to judge of the Breach of the Conditions given him, nor to command any Forces for the Deposing of him, whom on that Condition they had set up, but are in the Estate of war amongst themselves, as they were before they made themselves a Democracy; and consequently, if he that is elected by the advantage of the possession he hath of the publick meanes, be able to compel them to Unity and Obedience, he hath not only of the right of Nature to warrant him, but of the Law of Nature to Oblige him thereunto. But if in Electing him, they reserved to themselves

a right of Assembling, and appointed certain times and places to that purpose, then are they Soveraign still, and may call their conditional King to account at their pleasure, and deprive him of his Government, if they judge he deserve it, either by breach of the condition set him, or otherwise. For the Soveraign power can by no Covenant with a subiect be bound to continue him in the charge he undergoeth by their Command, as a Burden imposed not particularly for his good, but for the good of the Soveraign People.

11. The Controversies that arise concerning the Right of the People, proceed from the Equivocation of the Word. For the word People hath a double signification. In one sense it signifieth onely a Number of Men, distinguished by the place of their habitation; as the *People of England*, or the *People of France*, which is no more, but the Multitude of those particular persons that inhabit those Regions, without consideration of any Contracts or Covenants amongst them, by which any one of them is obliged to the rest. In another sense, it signifieth a Person civill, that is to say, either one Man or one Councel, in the Will whereof is included and involved, the Will of every one in particular. As for example; in this later sence, the lower House of Parliament is all the Commons as long as they sit there

with

with authority and right thereto; but after they be dissolved, though they remain, they be no more the People nor the Commons, but only the Aggregate, or Multitude of the particular men there sitting, how well soever they agree, or concur, in Opinions amongst themselves; whereupon they that do not distinguish between these two significations, do usually attribute such rights to a dissolved Multitude, as belong only to the People virtually contained in the Body of the Common Wealth or Soveraignty. And when a great number of their own authority flock together in any nation, they usually give them the name of the whole Nation. In which sense they say the People rebelleth, or the People demandeth, when it is no more then a dissolved multitude, of which though any one man may be said to demand or have right to something, yet the heap, or multitude, cannot be said to demand or have right to any thing. For where every man hath his right distinct, there is nothing left for the multitude to have right unto: and when the particulars say, this is mine, this is thine, and this is his, and have shared all amongst them, there can be nothing whereof the Multitude can say, this is mine; nor are they one Body as behoveth them to be, that demand any thing under the name of Mine, or His: and when they say Ours every man is understood to pretend in seve-

rall, and not the multitude. On the other side, when the Multitude is united into a Body politick, and thereby are a People in the other signification, and their wills virtually in the Soveraign, therethe rights and Demands of the particulars do cease; and he or they that have the Soveraign Power, doth for them all demand and vindicate under the name of his, that which before they called in the plural, Theirs.

12. VVe have seen how particular men enter into subiection by transferring their Rights; It followeth to consider, how such subiection may be discharged. And first, if He or they that have the Soveraign Power, shall relinquish the same voluntarily, there is no doubt, but every man is again at Liberty to obey or not. Likewise, if he or they retaining the Soveraignty over the rest, do neverthless exempt some one or more, from their subiection, every man so exempted, is discharged, for he or they to whom any man is obliged, hath the power to release him.

13. And here it is to be understood, that when he or they that have the Soveraign power, give such exemption, or Priviledge, to a Subiect, as is not seperable from the Soveraignty, and neverthelesse directly retaineth the Soveraign Power, not knowing the consequence of the priviledg they grant, the Person or persons exempted or priviledged, are

are not thereby releaſed. For in contradictory ſignifications of the will, Part 1. Chap. 13. Sect. 9. That which is directly ſignified, is to be underſtood for the will, before that which is drawn from it by Conſequence.

14. Alſo Exile perpetual, is a Releaſe of Subiection, foraſmuch, as being out of the protection, of the Soveraignty that expelled him, he hath no meanes of ſubſiſting but from himſelf. Now every man may lawfully defend himſelf, that hath no other Defence; elſe there had been no neceſſity, that any man ſhould enter into voluntary ſubiection, as they do in Common Wealths.

15. Likewiſe a man is releaſed of his ſubiection by conqueſt. For when it cometh to paſs, that the Power of a Common wealth is overthrown, and any particular man thereby lying under the ſword of his Enemy, yeildeth himſelf Captive, he is thereby bound to ſerve him that taketh him, and conſequently diſcharged of his Obligation to the former. For no man can ſerve two Maſters.

16. Laſtly, Ignorance of the Succeſſion diſchargeth Obedience: For no man can be underſtood to be obliged to obey he knoweth not whom.

CHAP.

CHAP. III.

1, 2. *Tit les to Dominion; Master and Servant*, &c. 3. *Chaines and other*, &c. *Bonds* &c. *Slave defined.* 4. *Servants have no property against their Lord*, &c. 5. *The Master hath right to alienate his Servant.* 6. *The Servant of the Servant*, &c. 7. *How Servitude is discharged.* 8. *The middle Lord.* &c. 9. *The title of Man*, &c. *Over Beasts.*

HAving set forth in the two preceding Chapters, the Nature of a Common Wealth *Institutive* by the Consent of many men together, I come now to speak of Dominion, or a Body politick by acquisition, which is commonly called a *Patrimonial* Kingdome. But before I enter thereinto, it is necessary to make known upon what Title one man may acquire Right, that is to say, Property or Dominion over the person of another. For when one Man hath Dominion over another, there is a little Kingdome. And to be a King by Acquisition, is nothing else but to have acquired a Right or Dominion over many.

2. Con-

2. Considering men therefore again in the Estate of Nature, without Covenants or Subjection one to another, as if they were but even now all at once created Male and Female, there be three Titles only, by which one man may have Right and Dominion over another; whereof two may take place presently, and those are, voluntary offer of Subjection, and yeilding by Compulsion: The third is to take place upon the supposition of Children begotten amongst them. Concerning the first of these three Titles, it is handled before in the two last Chapters. For from thence cometh the Right of Soveraigns over their Subjects in a Common Wealth Institutive. Concerning the second Title, (which is when a man submitteth to an Assailant for fear of Death) thereby accrueth a Right of Dominion. For where every man (as it happeneth in this case) hath Right to all things, there needs no more for the making of the said Right effectual but a Covenant from him that is overcome, not to resist him that overcometh. And thus cometh the victor to have right of absolute Dominion over the conquered. By which there is presently constituted a little Body politick, which consisteth of two Persons, the one Soveraign, which is called the *Master* or Lord; the other subject, which is called the *Servant*. And when a man hath acquired right over a number of Servants so con-

considerable, as they cannot by their Neighbours be securely invaded, this Body politick is a Kingdome Despotical.

3. And it is to be understood that when a Servant taken in the VVars, is kept bound in natural Bonds, and Chaines and the like, or in prison, there hath passed no covenant from the Servant to his Master. For those natural Bonds have no need of strengthening by the verbal Bonds of Covenant, and they shew, that the Servant is not trusted. But Covenant, (Part 1. Chap. 15. Sect. 9.) supposeth Trust. There remaineth therefore in the Servant thus kept bound, or in Prison, a Right of delivering himself, if he can, by what means soever. This kind of Servant is that which ordinarily, and without passion, is called a *Slave*. The *Romanes* had no such distinct name, but comprehended all under the name of *Servus*; whereof such as they loved and durst trust, were suffered to go at liberty, and admitted to places of Office, both neer to their Persons, & in their affaires abroad; the rest were kept chained, or otherwise restrained with naturall impediments to their Resistance. And as it was amongst the *Romanes*, so it was amongst other Nations, the former sort having no other Bond but a supposed Covenant, without which the Master had no reason to trust them; the later being without Covenant, and no otherwise tyed to Obedience;

dience, but by Chains, or other like forcible custody.

4. A Master therefore is to be supposed to have no less right over those, whose Bodies he leaveth at Liberty, then over those he keepeth in Bonds and Imprisonment, and hath absolute Dominion over both, and may say of his servant, that he is his, as he may of any other thing: And whatsoever the servant had, and might call his is now the Master's; for he that disposeth of the Person, disposeth of all the person could dispose of: insomuch, as though there be *Meum & Tuum* among servants distinct from one another by the dispensation and for the benefit of their Master, yet there is no *Meum & Tuum* belonging to any of them against the Master himselfe, whom they are not to resist, but to obey all his Commands as Law.

5. And seeing both the Servant and all that is committed to him, is the property of the Master, and every man may dispose of his own, and transfer the same at his pleasure, the Master may therefore alienate his Dominion over them, or give the same by his last Will to whom he list.

6. And if it happen, that the Master himself by Captivity or voluntary subjection, become servant to another, then is that other Master *Paramount*; & those servants of him that becometh servant, are no farther obliged

liged, then their Master Paramount shall think good; forasmuch as he disposing of the Master subordinate, disposeth of all he hath, and consequently of his servants. So that the restriction of absolute Power in Masters, proceedeth not from the Law of Nature, but from the Political Law of him, that is their Master Supream or Soveraign.

7. Servants immediate to the supream Master, are discharged of their servitude, or subiection in the same manner that subiects are released of their Allegiance in a Common Wealth Institutive. As first, by Release. For he that captiveth, (which is done by accepting what the captive transferreth to him) setteth again at liberty, by transferring back the same. And this kinde of Release is called *Manumission*. Secondly, by Exile. For that is no more but Manumission given to a Servant, not in the way Benefit, but punishment. Thirdly, By a new Captivity, where the Servant having done his Endeavour to defend himself, hath thereby performed his Covenant to his former Master, and for the safety of his life, entring into new Covenant with the Conquerour, is bound to doe his best endeavour to keep that likewise. Fourthly, Ignorance of who is Successor to his deceased Master, dischargeth him of Obedience: for no Covenant holdeth longer then a man knoweth to whom he is to perform it. And lastly, that

that Servant that is no longer trusted, but committed to his Chains and Custody, is thereby discharged of the Obligation *in foro interno*, and therefore if he can get loose, may lawfully goe his way.

8. But servants subordinate, though manumitted by their immediate Lord, are not thereby discharged of their subiection to their Lord Paramount, for the Immediate Master hath no propertie in them, having transferred his Right before to another, namely, to his own and supream Master. Nor if the chief Lord should manumit his immediate servant, doth he thereby release his servants of their Obligation to him that is so manumitted. For by this Manumission, he recovereth again the absolute Dominion he had over them before. For after a Release, (which is the discharge of a Covenant) the Right standeth as it did before the Covenant was made.

9. This Right of Conquest, as it maketh one man master over another, so also maketh it a man to be master of the irrational Creatures. For if a man in the state of Nature be in Hostility with men, and thereby have lawful Title to subdue or kill, according as his owne Conscience and Discretion shall suggest, unto him for his safety and Benefit, much more may he doe the same to Beasts; that is to say, save and preserve for his own service, according to his Discretion, such as

are

are of Nature apt to obey, and commodious for use; and to kill and destroy with perpetual War, all other, as fierce and noysome to him. And this Dominion is therefore of the Law of Nature, and not of the Divine Law Positive. For if there had been no such Right, before the revealing of Gods Will in the Scripture, then should no man to whom the Scripture hath not come, have right to make use of those his Creatures, either for his Food or sustenance. And it were a hard Condition of mankind, that a fierce and salvage Beast, should with more right kill a man, then a man a Beast.

CHAP. IV.

1. *The Dominion over the Child,* &c. 2. *Prehemincnce of Sex giveth not the Child to the Father, rather then to the Mother.* 3. *The Title of the Father or Mother,* &c. 4. *The Child of a Woman-servant,* &c. 5. *The Right to the Child given from the Mother,* &c. 6. *The Child of the Concubine,* &c. 7. *The Child of the Husband and the Wife,* &c. 8. *The Father, or he or she that bringeth up the Child, have absolute power over Him.* 9. *Freedome in Subiects what it is.* 10. *A Great Family is a Patrimonial Kingdome.* 11. *Succession of the Soveraign Power,* &c. 12. *Though the Successor be not declared,*

yet

yet there is alwayes One to be presumed. 13. *The Children preferred to the succession,* &c. 14. *The Males before Females.* 15. *The Eldest before the rest of the Brothers.* 16. *The Brother next to the Children.* 17. *The Succession of the Possessor,* &c.

OF three wayes by which a man becometh subiect to another, mentioned Sect. 2. Chap. the last, namely, Voluntary Offer, Captivity and Birth, the former two have been spoken of, under the name of Subiects and Servants. In the next place, we are to set down the Third way of subiection, under the name of Children, and by what Title one man commeth to have propriety in a Child, that proceedeth from the Common Generation of two, (to wit) of Male and Female. And considering men again dissolved from all Covenants one with another, and that (Part 1. Chap. 4. Sect. 2.) every man by the Law of Nature, hath right or propriety to his own Body, the Child ought rather to be the proprietie of the Mother, (of whose Body it is part, till the time of separation) then of the Father. For the understanding therefore of the Right that a man or woman hath to his or their Child, two things are to be considered; First, what Title the mother, or any other originally hath, to a child new born: Secondly, how the Father, or any other man, pretendeth by the Mother.

2. For

2. For the first, they that have written of this subiect have made Generation to be a Title of Dominion over persons, as well as the consent of the persons themselves. And because Generation giveth Title to two, namely, Father, and Mother, whereas Dominion is Indivisible, they therefore ascribe Dominion over the Child to the Father only, *Ob præstantiam Sexus*; but they shew not, neither can I find out by what coherence, either Generation inferreth Dominion, or Advantage of so much strength, which, for the most part, a man hath more then a woman, should generally and universally entitle the Father to a propriety in the Child and take it away from the Mother.

3. The Title to Dominion over a Child, proceedeth not from the Generation, but from the preservation of it; and therefore in the Estate of Nature, the Mother, in whose power it is to save or destroy it, hath right thereto by that power, according to that which hath been sayd, Part 1. Chap. 1. Sect. 13. And if the Mother shall think fit to abandon, or expose her Child to Death, whatsoever man or woman shall finde the child so exposed shall have the same Right which the Mother had before; and for this same reason, namely, for the Power not of Generating, but preserving. And though the child thus preserv'd, do in time acquire strength, whereby he might pretend Equa-

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lity with him or her that hath preſerved him, yet ſhall that pretence be thought unreaſonable, both becauſe his ſtrength was the Gift of him, againſt whom he pretendeth, and alſo becauſe it is to be preſumed that he whichgiveth ſuſtenance to another, whereby to ſtrengthen him, hath received a Promiſe of Obedience in Conſideration thereof. For elſe it would be Wiſdome in men, rather to let their Children periſh, while they are Infants, then to live in their Danger or Subiection, when they are grown.

4. For the Pretences which a man may have to dominion over a child by the right of the Mother, they be of divers kinds. One by the abſolute Subiection of the Mother; another, by ſome particular Covenant from her, which is leſs then a Covenant of ſuch ſubiection. By abſolute ſubiection, the Maſter of the Mother hath Right to her Child, according to Sect. 6. Chap. 3. whether he be the Father thereof, or not. And thus the Children of the ſervant are the Goods of the Maſter in *Perpetuum*

5. Of Covenants that amount not to ſubiection between Man and Woman, there be ſome which are made for a time; they are Covenants of Cohabitation, or elſe of Copulation only. And in this later caſe, the children paſs by Covenants particular. And thus in the Copulation of the *Amazones*

with

with their Neighbours, the Fathers by Covenant had the Male children only, the Mothers retaining the Females.

6. And Covenants of Cohabitation are either for Society of Bed, or for Society of all things; if for Society of Bed only, then is the Woman called *A Concubine*. And here also the Child shall be his or hers, as they shall agree particularly by Covenant. For although for the most part, a Concubine is supposed to yeild up the Right of her Children to the Father, yet doth not Concubinate enforce so much.

7. But if the Covenants of Cohabitation be for societie of all things; it is necessary that but one of them govern and dispose of all that is common to them both; without which, (as hath been often said before) Societie cannot last. And therefore the man, to whom for the most part, the woman yeildeth the Government, hath for the most part also, the sole Right and Dominion over the Children. And the man is called the Husband, and the Woman the VVife. But because sometimes the Government may belong to the VVife only, sometimes also the Dominion over the Children shall be in her only. As in the case of a Soveraign Queen, there is no Reason that her Marriage should take from her the Dominion over her Children.

8. Children therefore, whether they be brought

brought up and preserved by the Father, or by the Mother, or by whomsoever are in most absolute subjection to Him or Her, that so bringeth them up, or preserveth them. And they may alienate them, that is, assign his or her Dominion, by selling, or giving them, in Adoption or Servitude, to others; or may pawn them for Hostages, kill them for Rebellion, or sacrifice them for Peace, by the Law of Nature, when he or she, in his or her conscience, think it to be necessary.

9. The Subiection of them who institute a Common Wealth amongst themselves, is no less absolute then the subiection of servants. And therein they are in equal estate. But the hope of those is greater then the hope of these. For he that subiecteth himself uncompelled, thinketh there is no reason he should be better used then he that doth it upon Compulsion; and coming in freely calleth himself, though in subiection, a *Free-man*; whereby it appeareth that Liberty is not any exemption from subiection and obedience to the Soveraign power, but a State of better hope then theirs, that have been subiected by force and conquest. And this was the reason, that the Name which signifieth Children in the Latine tongue, is *Liberi*, which also signifieth *Free men*. And yet in *Rome* nothing at that time was so obnoxious to the power of others, as children in the Family of their Fathers. For both the State had

had power over their life without consent of their Fathers, and the Father might kil his son by his own authority, without any warrant from the State. Freedome therefore in Common-Wealths, is nothing but the Honour of Equality of Favour with other Subiects, and Servitude the Estate of the rest. A Free-man therefore may expect employments of Honour, rather then a Servant. And this is al that can be understood by the Liberty of the Subiect. For in all other senses, Liberty is the State of him that is not subiect.

10. Now when a father that hath children hath servants also, the children (not by the right of the child, but by the natural indulgence of the Parents) are such fremen. And the whole consisting of the Father or Mother, or both, & of the children, & of the servants, is called a *Family*, wherin the Father or Mother of the Family is soveraign of the same, and the rest (both children and servants equally) subiects. The same Family, if it grow by multiplication of children, either by Generation or Adoption; or of servants, either by Generation, Conqueſt, or voluntary submission, to be so Great and Numerous, as in probability it may protect it self, then is that Family called a *Patrimoniall Kingdome*, or Monarchy by acquisition, wherein the Soveraignty is in one man, as it is in a Monarch made by *Politicall institution.*

tion. So that whatsoever Rights be in the One, the same also be in the other. And therefore I shall no more speake of them as distinct, but of Monarchy in general.

11. Having shewed by what right the several sorts of Common-wealths, Democracy, Aristocracy, and Monarchy, are erected, it followeth, to shew by what right they are continued. The Right by which they are continued, is called the Right of Succession to the Soveraign Power: whereof there is nothing to be said a Democracy, because the Soveraign dyeth not, as long as there be Subjects alive. Nor in any Aristocracy, because it cannot easily fall out, that the *Optimates should every* one fail at once: And if it should so fall out, there is no question, but the Common Wealth is thereby dissolved. It is therefore in a Monarchy only, that there can happen a Question concerning the Succession. And first, forasmuch as a Monarch, which is absolue Soveraign, hath the Dominion in his own Right, he may dispose thereof at his own Will. If therefore by his last Will, he shall name his Successor, the Right passeth by that Will.

12. Nor if the Monarch dye without any Will concerning the Succession declared, it is not therefore to be presumed, it was his Will his Subiects, which are to him as his children and Servants, should return again to the State of Anarchy, that is to War and

Hostility. For that were expresly against the Law of Nature, which commandeth to procure Peace, and to maintain the same. It is therefore to be conjectured with reason, that it was the intention to bequeath them Peace, that is to say, a Power Coercive, whereby to keep them from sedition amongst themselves; and rather in the Form of a Monarchy, then any other Government; forasmuch as he, by the exercise thereof in his own person, hath declared, that he approveth the same.

13. Farther, it is to be supposed, his Intention was, that his own Children should be preferred in the Succession (when nothing to the contrary, is expresly declared) before any other. For men naturally seek their own Honour, and that consisteth in the honour of their Children after them.

14. Again, seeing every Monarch is supposed to desire to continue the Government in his Successors, as long as he may; and that generally men are indued with greater parts of Wisdom and Courage, by which all Monarchies are kept from dissolution, then Women, are it is to be presumed, where no express Will is extant to the contrary, he preferreth his Male children before the Female. Not but that Women may governe, and have in divers ages and places governed wisely, but are not so apt thereto in generals, as men.

15. Be-

15. Because the Soveraign Power is indivisible, it cannot be supposed, that he intended the same should be divided, but that it should descend intirely upon one of them, which is do be presumed, should be the Eldest, assigned thereto by the Lot of Nature, because he appointed no other Lot for the Decision thereof. Besides, what difference of ability soever there may be amongst the Brethren, the Odds shall be adiudged to the Elder, because no Subiect hath authority otherwise to judge thereof.

16. And for want of issue in the possessor, the Brother shall be presumed Successor. For by the Judgement of Nature, next in Blood, is next in Love, and next in Love, is next to preferment.

17. And as the Succession followeth the first Monarch, so also it followeth Him or Her that is in possession; and consequently, the Children of Him in possession, shall be preferred before the Children of his Father, or Predecessor.

CHAP. V.

1. *The Utility of the Common-Wealth, &c.* 2. *The losse of liberty, &c.* 3. *Monarchy*

approved, &c. 4. *Monarchy leſs ſubiect to Paſſion, &c.* 5. 6. *Subiects in Monarchy, &c.* 7. *Laws in Monarchy leſs changeable, &c.* 8. *Monarchies leſs ſubiect to diſſolution.*

HAving ſet forth the Nature of a Perſon Politick, and the three ſotts thereof, Democracy, Ariſtocracy, and Monarchy, In this Chapter ſhall be declared, the *Convencies*, and *Inconveniencies*, that ariſe from the ſame, both in general; and of the ſaid ſeveral ſorts in particular. And firſt, ſeeing a Body Politick is erected only for the ruling and governing of particular men, the benefit and damage thereof conſieth in the benefit or damage of being ruled. The benefit is that for which a Body Politick was inſtituted, namely, the Peace and Preſervation of every particular man, then which it is not poſſible there can be a greater, as hath been touched before, Part 1. chap. 1. Sect. 12. And this Benefit extendeth equally both to the *Soveraign* and to the *Subjects*. For he or they that have the Soveraign Power, have but the Defence of their Perſons, by the Aſſiſtance of th Particulars; and every particular man hath his Defence by their Union in the Soveraign. As for other Benefits, which pertain not to their ſafetie and ſufficiency, but to their well and delightfull being, ſuch as

are

are superfluous riches, they so belong to the Soveraign, as they must also be in the Subject; and so to the Subiect, as they must also be in the Soveraign. For the Riches and Treasure of the Soveraign, is the Dominion he hath over the riches of his Subiects. If therefore the Soveraign provide not so, as that particular men may have means, both to preserve themselvs, and also to preserve the Publick the common or soveraign treasure can be none. And on the other side, if it were not for a common and publick Treasure belonging to the Soveraign Power, Mens private Riches would sooner serve to put them into Confusion and War, then to secure and maintain them. Insomuch, as the profit of the Soveraiegn & Subiect goeth alwayes together. That distinction therefore of Government, that There is one Government for the good of him that governeth, & another for the good of them that be governed; whereof the former is *Despotical*, (that is Lordly) the other, a Governuent of *freemen*, is not right. No more is the Opinion of them that hold it to be no city, which consisteth of a Master and his Servants. They might as well say, it were no City that consisted in a Father and his own issue, how numerous soever they were. For to a Master that hath no Children, the Servants have in them all those respects, for which men love their Children. For they are his Strength,

and his Honour. And his power is no greater over them, then over his Children.

2. The inconvenience arising from Government in general, to him that governeth consisteth partly in the continual care and trouble about the business of other men that are his Subiects, and partly in the danger of his Person. For the Head alwayes is that part, not only where the care resideth but also against which the stroke of an Enemy most commonly is directed. To ballance this incommodity, the Soveraignty, together with the necessity of this Care and Danger, comprehendeth so much Honour, Riches and Means, whereby to delight the mind, as no private mans Wealth can attain unto. The inconveniences of Government in generall to a Subiect are none at all, if well considered, but in appearance. There be two things that may trouble his mind, or two general grievances, The one is losse of Liberty; The other, the uncertainty of *Meum & Tuum*. For the first, it consisteth in this, That a Subiect may no more governe his own Actions according to his own discretion and judgement, (which is all one) Conscience, as the present occasions from time to time shall dictate to him, but must be tyed to do according to that Will onely, which once for all, he had long ago laid up, and involved in the Wills of the maior part of an Assembly, or in the Will of some One man

man. But this is really no inconvenience. For, as it hath been shewed before, it is the Only Meanes, by which we have any possibility of preserving our selves. For if every man were allowed this liberty, of following his Conscience, in such difference of Consciences, they would not live together in peace an hour. But it appeareth a great Inconvenience to every man in particular, to be debarred of this liberty, because every one a part considereth it as in himself, and not as in the rest, by which means, Liberty appeareth in the likeness of Rule and Governmrnt over others. For where one man is at Liberty, and the rest bound, there that One hath government; which honour, he that understandeth not so much, demanding by the name simply of Liberty, thinketh it a great grievance and iniury to be denyed it. For the second grievance concerning *Meum & Tuum*, it is also none, but in appearance only; it consisteth in this, That the Soveraign Power, taketh from him that which he used to enjoy, knowing no other propriety but use and custome. But without such Soveraign Power, the Right of men is not Proprietie to any thing, but a community, no better then to have no right at all, as hath been shewed, Part. 1. Chap. 1. Sect. 10. Propriety therefore being derived from the Soveraign power, is not to be pretended against

the same, especially, when by it every subject hath his propriety against every other Subject, which when Soveraignty ceaseth, he hath not, because in that case they return to war amongst themselves. Those Levies therfore which are made upon mens estates, by the Soveraign Authority, are no more but the price of that Peace and Defence which the sovraignty maintaineth for them. If this were not so, no Money nor forces for the Wars, not any other publick occasion, could justly be levied in the World. For neither King, nor Democracy, nor Aristocracy, nor the Estates of any Land, could do it, if the Soverainty could not. For in all those cases it is levied by virtue of the Soveraignty. Nay more, by the three Estates, here the Land of one man may be transferred to another, without Crime of his from whom it was taken, and withomt pretence of publick benefit, as hath been done; and this without injury, because done by the Soveraign Power. For the power whereby it is done, is no less then Soveraign, and cannot be greater. Therefore this Greivance for *Meum & Tuum* is not real, unless more be exacted then is necessary; but it seemeth a Greivance, because to them that either know not the Right of Soveraignty, or to whom that right belongeth, it seemeth an injury, and iniury howsoever little the dammage is alwaies greivous as putting us in mind

minde of our disability to help our selves, and into Envy of the Power to do us wrong.

3. Having spoken of the Inconveniencies of the subiect, by Government in general, let us consider the same in the three several sorts thereof, namely, *Democracy*, *Aristocracy* and *Monarchy*; whereof the two former are in effect but one. For (as I have shewed before) Democracy is but the Governement of a few Orators. The comparison therefore will be between Monarchy and Aristocracy: And to omit that the World as it was created, so also it is governed by One God Almighty; and that all the Ancients have have preferred Monarchy before other Governments, both in opinion, because they faigned a Monarchial government amongst their Gods, and also by their custome; for that in the most ancient times all people were so governed; and that paternal Government which is Monarchy, was instituted in the beginning from the Creation, & that other Governments have proceeded from the dissolution thereof, called by the Rebellious Nature of Mankind, and be but Pieces of broken Monarchies cemented by Humane Wit, I will insist only on this comparison upon the inconvenies that may happen to the subiects, in consequence to each of these Governments.

4. And first, it seemeth inconvenient

there should be committed so great a Power to one Man, as that it might be lawful to no other man or men to resist the same; and som think it inconvenient *eo nomine*, because he hath the power. But this reason we may not by any means admit. For it maketh it inconvenient to be ruled by Almighty God, who without question hath more power over every man, then can be conferred upon any Monarch. This inconvenience therefore must be derived, not from the Power, but from the affections and passions which raign in every one, as well Monarch, as Subject, by which the Monarch may be swayd to use that Power amiss. And because an Aristocracy consisteth of men, if the passions of many men be more violent when they are assembled together, then the passions of one man alone, it will follow, that the Inconvenience arising from Passions will be greater in an *Aristocracy* then a *Monarchy*. But there is no doubt, when things are debated in great Assemblies, but every man delivering his opinion at large without interruption endeavoureth to make whatsoever he is to set forth for Good, better; and what he would have apprehended as evill, worse, as much as is possible, to the end his Counsel may take place; which Counsel also is never without ayme at his own benefit, or honour; every mans end being some good to himself. Now this cannot be done without working

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on the Paſſions of the reſt. And thus the Paſſions of theſe that are ſingly moderate, are altogether vehement, even as a great many Coals, though but warm aſunder, being put together, inflame one another.

5. Another Inconvenience of Monarchy, is this, That the Monarch, beſides the Riches neceſſary for the Defence of the Common Wealth, may take ſo much more from the Subiects, as may enrich his Children, Kindred and Favourites, to what degree he pleaſeth; which though it be indeed an Inconvenience, if he ſhould ſo do, yet is the ſame both greater in an Ariſtocracy, and alſo more likely to come to paſs. For their, not One only, but many have Children, Kindred, and Friends to raiſe. And in that point they are as twenty Monarchs for One, and likely to ſet forward one anothers Deſigns mutually, to the Oppreſſion of all the reſt. The ſame alſo happeneth in a Democracy, if they all do agree, otherwiſe they bring a worſe Inconvenience, to wit, Sedition.

6. Another Inconvenience of Monarchy, is the Power of Diſpencing with the Execution of Iuſtice, whereby the Family and Friends of the Monarch may with impunity, commit outrages upon the People, or oppreſſe them with Extortion. But in Ariſtocracies, not only One, but many have Power of taking men out of the Hands of Iuſtice,

and

and no man is willing his Kindred or Friends should be punished according to their Demerits. And therefore they understand amongst themselves without further speaking, as a tacite Covenant, *Hodie mihi, cras tibi*.

7. Another Inconvenience of Monarchy, is the Power of altring Lawes. Concerning which, it is necessary that such a Power be, that Lawes may be altered, according as mens manners charg, or as the Coniuncture of all Circumstances within and without the Common Wealth shall require; the change of Law being then Inconvenient, when it proceedeth from the Change, not of the occasion, but of the minds of him or them, by whose Authority the Laws are made. Now it is manifest enough of it self, that the mind of one man is not so variable in that point, as are the Decrees of an Assembly. For not only they have all their natural changes, but the change of any one man may be enough with eloquence and reputation, or by solicitation and faction, to make that Law to day, which another by the very same means shall abrogate to morrow.

8. Lastly, the greatest inconvenience that can happen to a Common Wealth, is the Aptitude to dissolve into civil War, and to this are Monarchies much less subiect then any other Governments. For where the

the Union or Band of a common Wealth is one Man, there is no distraction whereas in Assemblies, those that are of different Opinions, and give different Counsel are apt to fall out amongst themselves, and to cross the designs of the Common Wealth for one anothers sake: and when they cannot have the honour of making good their owne devices, they yet seek the Honour to make the Counsels of the Adversaries prove vain. And in this contention, when the opposite Factions happen to be any thing equal in strength, they presently fal to war. Wherein necessity teacheth both sides, that an absolute Monarch, to wit, a General, is necessary both for their Defence against one another, and also for the Peace of each Faction within it self. But this Aptitude to Dissolution, is to be understood for an Inconvenience in such Aristocracies onely, where the Affairs of State are debated in great and numerous Assemblies, as they were anciently in *Athens*, and in *Rome*; and not in such as doe nothing else in great Assemblies, but choose Magistrates and Counsellours, and commit the handling of State-affaires to a Few; such as is the Aristocracy of *Venice* at this Day. For these are no more apt to dissolve from this occasion, then Monarchies, the Counsel of State being both in the one and the other alike.

CHAP.

CHAP. VI.

1. *A Difficulty concerning absolute subiection to man, arising from our absolute subiection to God Almighty, propounded.* 2. *That this Difficulty is onely amongst those Christians, that deny the Interpretation of Scripture, to depend upon the Soveraign Authority of the Common-wealth.* 3. *That Humane Lawes are not made to govern the consciences of men, but their words and actions.* 4. *Places of Scripture to prove Obedience due from Christians to their Soveraign in all things.* 5. *A distinction propounded between a Fundamentall point of Faith, and a Superstruction.* 6. *An explication of the Points of Faith, that be fundamental.* 7. *The belief of those Fundamental points, is all that is required to salvation, as of Faith.* 8. *That other points not Fundamentall, are not necessary to salvation, as matter of Faith; and that no more is required by way of Faith to the salvation of one man, then to another.* 9. *That Superstructions are not points of the faith necessary to a Christian.* 10. *How faith and Justice concurre to salvation.* 11. *That in Christian Common-Wealths, Obedience to God and*

and man ſtand wel together. 12. *This Tenet, whatſoever is againſt the conſcience, is ſin, interpreted* 13. *That all men do confeſs the neceſſity of ſubmitting of controverſies to ſome Humane Authority.* 14. *That Chriſtians under an Infidel, are diſcharged of the Iniuſtice of diſobeying them, in that which concerneth the faith neceſſary to ſalvation, by not reſiſting.*

HAving ſhewed, that in all Common-Wealths whatſoever, the neceſſity of Peace and Government requireth, that there be exiſtent ſome Power, either in One man, or in One Aſſembly of men, by the Name of the Power Soveraign, to which it is not lawfull for any Member of the ſame Common-Wealth to diſobey; There occurreth now a difficulty, which if it be not removed, maketh it unlawfull for a man to put himſelf under the Command of ſuch Abſolute Soveraignty, as is required thereto. And the difficulty is this; We have amongſt us the Word of God for the Rule of our Actions: Now if wee ſhall ſubiect our ſelves to men alſo, obliging our ſelves to do ſuch Actions, as ſhall be by them commanded, when the Commands of God and Man ſhall differ, we are to obey God, rather then man; And conſequently, the Covenant of general Obedience to man is unlawfull.

2. This

2. This difficulty hath not been of very great Antiquity in the World. There was no such *Dilemna* amongst the Jewes; for their Civil Law, and Divine Law, was one and the same Law of *Moses*; the Interpreters whereof were the Priests, whose Power was subordinate to the Power of the King; as was the Power of *Aaron* to the Power of *Moses*. Nor is it a controversie that was ever taken notice of amongst the *Grecians*, *Romanes*, or other Gentiles: for amongst these their severall Civill Lawes, were the Rules whereby not only Righteousnes and Virtue, but also Religion, and the External Worship of God was ordered and approved; that being esteemed the true worship of God which was κατὰ τὰ νόμιμα, according to the Laws Civil. Also those Christians that dwell under the Temporal Dominion of the Bishop of *Rome*, are free from this Questions; for that they allow unto him (their Soveraign) to interpret the Scriptures, which are the Law of God as he in his own Judgement shall think Right. This difficulty therefore remaineth amongst, and troubleth those Christians only, to whom it is allowed, to take for the sense of the Scripture, that which they make thereof, either by their own private Interpretation, or by the Interpretation of such as are not called thereunto by publick Authority; they that follow their own Interpretation continually demanding

demanding Liberty of Conscience; and those that follow the Interpretation of Others not ordained thereunto by the Soveraign of the Common-Wealth, requiring a Power in matters of Religion, either above the Power Civil, or at least not depending on it.

3. To take away this scruple of Conscience, concerning Obedience to Humane Lawes, amongst those that interpret to themselves the Word of God in the Holy Scriptures, I propound to their Consideration, first, That no humane Law is intended to oblige the Conscience of a man, unlesse it break out into Action, either of the Tongue, or other part of the Body. The Law made thereupon would be of none effect, because no man is able to discern, but by Word or other action, whether such Law be kept or broken. Nor did the Apostles themselves pretend Dominion over mens Consciences concerning the faith they preached, but only perswasion and instruction. And therefore S. *Paul* saith, 2 Cor. 1. 24. writing to the *Corinthians*, concerning their controversies, that he and the rest of the Apostles had no Dominion over their Faith, but were helpers of their Joy.

4. And for the Actions of men which proceed from their consciences, the regulating of which actions is the only Means of Peace, if they might not stand with Justice,

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it were impossible that Justice towards God, and Peace amongst men, should stand together in that Religion that teacheth us, that *Justice and Peace should kiss each other*, and in which we have so many precepts of absolute Obedience to humane Authority; as Mat. 23. 2,3. we have this Precept. *The Scribes & Pharisees sit in* Moses *Seat; all therefore whatsoever they bid you observe that observe and do.* And yet were the Scribes and Pharisees not preists, but men of temporall Authority. Again, Luke 11.17. *Every Kingdome divided against it self shall be desolate*; and is not that Kingdome divided against it self, where the actions of every one shall be ruled by his private opinion or conscience, and yet those actions such as give occasion of offence and Breach of Peace. Again, Rom. 13. 5. *wherefore you must be subject, not because of wrath only, but also for conscience sake*, Tit. 3.1. *Put them in remembrance, that they be subiect to Principalities and Powers*, 1. Pet. 2. 13. 14. *Submit your selves unto all manner of ordinance of Man, for the Lords sake, whether it be unto the King, as unto the Superiour, or unto Governours, as unto them that are sent of him for the punishment of evill doers.* Jude verse 8. *These Dreamers also that defile the flesh, and despise Government, and speake evill of them that are in Authority.* And forasmuch as all Subiects in Common Wealths are in the nature of Children and servants, that which is a command

mand to them is a command to all Subiects. But to these S. *Paul* saith, Colos. 3. 20. 22. *Children obey your Parents in all things, Servants be obedient to your Masters according to the flesh in all things.* And verse 23. *Do it heartily as to the Lord.* These places considered, it seemeth strange to me, that any man in a Christian common wealth, should have any occasion to deny his Obedience to publick Authority, upon this ground, that *it is better to obey God then Man.* For though S. *Peter* and the Apostles did so answer the Councel of the *Jews*, that forbade them to preach Christ, there appeareth no reason that Christians should alledge the same against their Christian Governours that command to preach Christ. To reconcile this seeming contradiction of simple Obedience to God, and simple Obedience to man, we are to consider a christian subiect, as under a christian soveraign, or under an Infidell.

5. And under a Christian Soveraign we are to consider, what Actions we are forbidden by God Almighty to obey them in, and what not. The Actions we are forbidden to obey them in, are such only, as imply a denial of that Faith which is necessary to our Salvation: for otherwise there can be no pretence of disobedience; for why should a man incur the danger of a temporal death, by displeasing of his superiour, if it were not

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for fear of eternal Death hereafter. It must therefore be inquired, what those propositions and Articles be; the Beleife whereof our Saviour or his Apostles have declared to be such as without beleiving them a man cannot be saved; and then all other points that are now controverted and made distinction of Sects, *Papists*, *Lutheran*, *Calvinists*, *Arminians* &c. as in old Time, the like made *Paulists*, *Apollonians*, and *Cephasians*, must needs be such, as man needeth not for the holding thereof, deny Obedience to his Superiours. And for the points of Faith necessary to Salvation, I shall call them *Fundamental*, and every other point a *Superstruction*.

6. And without all controversie, there is not any more necessary Point to be believed for mans salvation then this, That *Jesus is the Messiah*, that is, *the Christ*; which Proposition is explicated in sundry sorts, bnt still the same in effect; as that he is Gods annointed, for that is signified by the word *Christ*. that *He was the true and lawful King of Israel*, *The Son of David*, *the Saviour of the World*, *The Redeemer of Israel*, *The Salvation of God* *He that should come into the World*, *the Son of God*, and (which I desire by the way to have noted, against the now Sect of *Arrians*) *The begotten Son of God*, Act. 3.13. Heb.5 5. *The only begotten Son of God*, 1 Joh. 1. 14. 18. Joh. 3. 16, 18. 1 Joh. 4.9. *That he was God* Joh. 1 1. Joh.

1 Joh. 2. 28. *That the Fulneſs of the Godhead dwelt in him bodily.* Moreover, *The Holy one, the Holy one of God, The Forgiver of ſins,, That he is riſen from the Dead.* Theſe are Explications, and Parts of that General Article, that *Jeſus is the Chriſt.* This Point therefore, and all the Explications thereof are Fundamental; as alſo all ſuch, as be evidently inferred from thence: as, *Belief in God the Father.* Joh. 12. 44. *He that beleveth in me, believeth not in me, but in him that ſent me:* 1 Joh. 2. 23, *He that denyeth the Son, hath not the Father,* Beliet in God the Holy Ghoſt, of whom Chriſt ſaith, Joh. 14. 26. *But the Comforter which is the Holy Ghoſt, whom the Father will ſend in my* Name. And Joh. 15. 16. *But when the comforter ſhall come whom I will ſend unto you from the Father, even the* Spirit *of truth.* Beleife of the ſcriptures, by which we beleeve thoſe points, and of the immortality of the Soul, without which we cannot beleeve that he is a Saviour.

7. And as theſe are the fundamentall points of faith neceſſary to ſalvation, ſo alſo are they only neceſſary as matter of faith and alſo eſſential to the calling of a chriſtian; as may appear by many evident places of Holy Scripture: Joh. 5. 39. *Search the Scriptures, for in them you think to have eteral life, and they are they which teſtifie of me.* Now, forasmuch as by the Scripture, is meant there

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the Old Testament (the New being then not written) the beleife of that which was written concerning our Saviour in the old Testament, was sufficient beleife for the obtaining of Eternal Life: but in the old Testament there is nothing revealed concerning Christ, but that he is the Messiah, and such things as belong to the Fundamentall Points thereupon depending. And therefore those fundamental Points are sufficient to salvation as of Faith. And Joh. 6. 28-29. *Then sayd they unto him, what shall we do, that we might work the works of God? Jesus answered and said unto them, this is the work of God, that ye beleeve in him, whom he hath sent.* So that the Point to be beleived is, *That Jesus Christ came forth from God, and he which believeth it, worketh the works of God.* Joh. 11 26. 27. *Whosoever liveth and beleiveth in me, shall never dye. Beleevest thou this? She sayd unto him, yea Lord, I beleeve that thou art the Christ the Son of God, which should come into the world.* Hence followeth, *He that beleiveth this shall never dye.* Joh. 20. 31. *But these things are written that ye might beleeve, that Jesus is the Christ, the Son of God, and that in beleiving, ye might have life through his Name.* By which appeareth, that this *Fundamentall* Point is all that is required, as of Faith to our Salvation. 1 Joh. 4. 2. *Every Spirit that confesseth that Jesus Christ is come into the flesh is of God:* 1 Joh. 5. 1. *Whosoever*

ver beleiveth that *Jesus is the Christ is born of God, and* ver. 5. *Who is it that overcometh the world, but he that beleiveth that Jesus is the Son of God*: and vers. 13. *These things have I written unto you that beleeve in the Name of the Son of God, that ye may know that ye have eternall life.* Act. 8. 36 37. *The Eunuch said, Here is water, what doth let me to be baptized? and* Philip *said unto him, if thou beleevest with all thy heart, thou mayst. He answered and sayd, I beleeve that Jesus Christ is the Son of God.* This point therefore was sufficient for the reception of Man into Baptisme, that is to say, to Christianity. And Act. 16. 30. *The Keeper of the Prison, fell down before* Paul *and* Silas, *and said, Sirs, what shall I do to be saved? And they sayd, beleeve in the Lord Jesus Christ.* And the Sermon of S. *Peter* upon the day of *Pentecost*, was nothing else but an explication, that *Jesus was the Christ. And when they had heard him, asked him, what shal we do, he said unto them*, Ac. 2. 38. *Amend your lives, and be baptized every one of you in the Name of Jesus Christ for the Remission of sins.* Rom. 10. 9. *If thou shalt confess with thy mouth the Lord Jesus, and shalt beleeve in thy heart, that God raised him up from the Dead, thou shalt be saved.* To these places may be added, that whersoever our Savior Christ doth approve the Faith of any man, the Proposition beleeved (if the same to be collected out of the Text) is alway some of those

thoſe Fundamental Points before mentioned, or ſomething Equivalent: as the Faith of the Centurion, Mat. 8. 8. *Speake the word only, and my Servant ſhall be healed*, beleiving he was omnipotent: The Faith of the Woman, which had an Iſſue of Blood, Math, 9. 21. *If I may but touch the Hem of his Garment*, implying, he was the Meſſiah, The Faith required of the blind men, Mat. 9. 28. *Beleeve you that I am able to do this?* The Faith of the *Canaanitiſh* Woman, *Matth.* 15. 22. That he was the *Son of David*, implying the ſame. And ſo it is in every one of thoſe places (none excepted) where our Saviour commendeth any mans Faith, which becauſe they are too many to inſert here, I omit, and refer them to his Inquiſition that is not otherwiſe ſatisfied. And as there is no other Faith required, ſo there was no other preaching: for the Prophets of the Old Teſtament, preached no other, and *John* the Baptiſt preached only the Approach of the Kingdome of Heaven, that is to ſay, of the Kingdome of Chriſt, the ſame was the commiſſion of the Apoſtles, Mar. 10. 7. *Go preach, ſaying, the kingdome of Heaven is at hand.* And *Paul* preaching amongſt the Jews, Act. 18. 5. did butteſtifie unto the *Jews* that, *Jeſus was the Chriſt.* And the Heathens took notice of Chriſtians no otherwiſe, but by this name that they beleeved *Jeſus to be a King*, crying out. Act. 17. 6. *Theſe are they that have ſubverted*

verted the ſtate of the World, and here they are, whom Jaſon hath received. And theſe all doe againſt the Decrees of Cæſar, ſaying, that there is another King, One Jeſus. And this was the Sum of the Predictions, the Sum of the Confeſſions of them that beleeved, as well Men as Devils. This was the Title of his Croſſe, *Jeſus of Nazareth, King of the Jewes*; This the occaſion of the Crowne of Thorns, Scepter of Reed, and a man to carry his Croſſe; This was the Subiect of the *Hoſanna's*; And this was the Title, by which our Saviour commanding to take another mans goods, bad them ſay, *The Lord hath need*: And by this Title, he purged the Temple of the profane market kept there. Nor did the Apoſtles themſelves believe any more, then that *Jeſus was the Meſſiah*, nor underſtand ſo much; for they underſtood the Meſſiah to be no more then a Temporall King, till after our Saviours Reſurrection. Furthermore, this Point, that *Chriſt is the Meſſiah*, is particularly ſet forth for *Fundamentall* by that word, or ſome other equivalent thereunto in divers places. Upon the Confeſſion of *Peter*, Matth. 16. 16. *Thou art the Chriſt, the Son of the living God*, Our Saviour ver. 18. ſaith, *Upon this Rock will I build my Church.* This point therefore is the whole Foundation of Chriſts Church. Rom. 15. 20. S. *Paul* ſaith, *I ſo inforced my ſelf to preach the Goſpel, not where Chriſt was named,*

left I should have built upon another mans foundation, 1 Cor. 3. 10. S. *Paul* when he had reprehended the *Corinthians* for their Sects, & curious Doctrines and Questions, he distinguisheth between *Fundamental* Points, and *Superstruction*; and saith, *I have laid the Foundation, and another buildeth thereupon; but let every man take heed how he buildeth upon it, For other Foundation can no man lay, then that which is laid, which is Jesus Christ.* Colos. 2. 6. *As you have received Christ Jesus the Lord, so walk in him, rooted and builded in him, and stablished in the Faith.*

8. Having shewed this Proposition, *Jesus is the Christ*, to be the only Fundamentall and necessary point of Faith, I shal set down a few places more, to shew, that Other Points, though they may be true, are not so necessary to be believed, as that a man may not be saved, though he believe them not. And first, If a man could not be saved without assent of the Heart to the truth of all Controversies, which are now in agitation concerning Religion, I cannot see, how any man living can be saved; so full of subtilty, and curious knowledge it is to be so great a Divine. Why therefore should a man think that our Saviour, who, *Mat.* 11. 30. saith, that His *Yoke is easie*, should require a matter of that difficulty? or how are little Children said to believe. Mat. 18. 6. or how could the good Thief be thought sufficiently catechi-

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zed upon the Croſſe? or S. *Paul* ſo perfect a Chriſtian preſently upon his Converſion? and though there may be more Obedience required in him that hath the Fundamental points explicated unto him, then in him that hath received the ſame but implicitely; yet there is no more faith required for ſalvation in one man, then in another. For if it be true, that *Whoſoever ſhall confeſſe with his mouth the Lord Jeſus, and believe in his heart, that God raiſed him from the Dead, ſhall be ſaved*; as it is, Rom. 10. 9. and that *Whoſoever believeth that Jeſus is the Chriſt, is born of God*, the Belief of that point is ſufficient for the ſalvation of any man whoſoever he be, for as much as concerneth Faith. And ſeeing he that believeth not that *Jeſus is the Chriſt*, whatſoever he believe elſe, cannot be ſaved, it followeth, that there is no more required to the ſalvation of one man, then another, in matter of Faith.

9. About theſe points Fundamental, there is little Controverſie amongſt Chriſtians, though otherwiſe of different Sects amongſt themſelves. And therefore the Controverſies of Religion, are altogether about Points unneceſſary to ſalvation; whereof ſome are Doctrines railed by Humane Ratiocination, from the points *Fundamentall*. As for Example; ſuch Doctrines as concern the Manner of the Real Preſence, wherein are mingled tenets of Faith concerning the Omnipo-

tency & Divinity of Christ, with the Tenets of *Aristotle* and the *Peripatelicks*, concerning Substance and Accidents, Species, Hypostasis, and the Subsistence and Migration of Accidents from place to place; Words some of them without meaning, and nothing but the Canting of *Grecian* Sophisters. And these Doctrines are condemned expresly, Col. 2. 8. where after S. *Paul* had exhorted them to *be rooted and builded in Christ*, he giveth them this farther Caveat; *Beware lest there be any man that spoil you through Philosophy and vain deceits, through the Traditions of men, according to the rudiments of the World.* And such, are such Doctrines, as are raised out of such places of the Scriptures, as concern not the Foundation, by mens natural Reason; as about the Concatenation of Causes, and the Manner of Gods Predestination; which are also mingled with Philosophy: as if it were possible for men that know not in what manner God seeth, heareth, or speaketh, to know nevertheless the manner how he intendeth, and predestinateth. A man therefore ought not to examin by Reason any point, or draw any Consequence out of Scripture, by Reason, concerning the nature of God Almighty, of which Reason is not capable. And therefore S. *Paul*, Rom. 12. 3. giveth a good Rule, *That no man presume to understand above that which is meet to understand, but that he understand according to Sobriety*, which they

they doe not, who presume out of Scripture, by their own Interpretation, to raise any Doctrine to the Understanding, concerning those things, which are incomprehensible. And this whole controversie concerning the Predestination of God, and the Free Wil of Man, is not peculiar to Christian men. For we have huge volumes of this subiect, under the name of *Fate* & *Contingency*, disputed between the *Epicurians* and the *Stoicks*, and consequently it is not matter of Faith, but of Philosophy: and so are also all the Questions concerning any other Point, but the Foundation before named; and God receiveth a man which part of the Question soever he holdeth. It was a Controversie in S. *Pauls* time, whether a Christian Gentile might eate freely of any thing which the Christian Jews did not: and the Jew condemned the Gentile that he did eat, to whom S. *Paul* saith, Rom. 14. 3. *Let not him that eateth not, iudge him that eateth: for God hath received him.* And vers. 6. in the Question concerning the observing of Holy Dayes, wherein the Gentiles the Jewes differed, he saith unto them, *He that observeth the Day, observeth it to the Lord, and he that observeth not the Day, observeth it not to the Lord.* And they who strive concerning such Questions, and divide themselves into Sects, are not therefore to be accounted zealous of the Faith, their strife being but carnal, which is

confirmed by S. *Paul*, 1 Cor. 3. 4. *When one saith, I am of Paul, and another, I am of Apollos, are ye not carnal?* For they are not Questions of Faith, but of wit, wherein carnally men are inclined to seek the Mastery one of another. For nothing is truly a Point of Faith, but that *Jesus is the Christ*; as S. *Paul* testifieth, 1 Cor. 2. 2. *For I esteemed not the knowledge of any thing amongst you, save Jesus Christ, and him crucified.* And 1 Tim. 6. 20. *O Timotheus, keep that which is committed unto thee, and avoid prophane and vain bablings, and Oppositions of Science falsly so called, which while some profess, they have erred concerning the Faith.* 2 Tim. 2. 16. *Stay prophane and vain bablings*, &c. vers. 17. *Of which sort is Hymeneus and Philetus, which as concerning the truth, have erred, saying, that the Resurrection is past already.* Whereby S. *Paul* shewed, that the Raising of Questions by Humane Ratiocination, though it be from the Fundamental Points themselves, is not onely not necessary, but most dangerous to the Faith of a Christian. Out of all these places, I draw only this Conclusion in general, That neither the points now in Controversie amongst Christians of different Sects, or in any point that ever shall be in Controversie, excepting only those that are contained in this Article, *Jesus is the Christ*, are necessary to salvation, as of faith; though

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in matter of obedience, a man may be bound not to oppose the same.

10. Although to the obtaining of Salvation, there be required no more, as hath been already declared out of the Holy Scriptures, as matter of Faith, but the Belief of those Fundamental Articles before set forth, nevertheless, there are required other things, as matter of obedience. For as it is not enough in Temporal Kingdoms (to avoid the punishment which Kings may inflict) to acknowledge the Right and Title of the King, without Obedience also to his Laws; So also it is not enough, to acknowledge our Saviour Christ to be the King of Heaven, in which consisteth Christian Faith, unless also we endeavour to obey his Lawes, which are the Lawes of the Kingdome of Heaven, in which consisteth Christian Obedience. And forasmuch as the Laws of the Kingdom of Heaven, are the Laws of Nature, as hath been shewed, Part. 1. Chap. 5. not only Faith, but also the Observation of the Law of Nature, which is that for which a man is called Just or Righteous, (in that sense, in which Justice is taken not for the Absence of Guilt, but for the Endeavor and constant Will to do that which is Just) not only Faith, but this Justice, which also from the effect thereof, is called Repentance, and sometimes Works, is necessary to salvation. So that Faith and Justice do both con-

cur thereto; and in the ſeveral acceptation of this word Juſtification, are properly ſaid both of them to juſtifie; and the want of either of them is properly ſaid to condemn. For not only he that reſiſteth a King upon doubt of his Title, but alſo he that doth it upon the inordinateneſſe of his Paſſions, deſerveth puniſhment. And when Faith and Works are ſeparated, not only the Faith is called Dead without Works, but alſo Works are called Dead Works without Faith, And therefore S. *James*, Chap. 2. 17. ſaith, *Even ſo the Faith, if it have no works, is dead in it ſelf*, and verſ. 26. *For as the Body without the Spirit is dead, even ſo Faith without works is dead.* And S. *Paul*, Heb. 6. 1. calleth Works without Faith, *Dead Works*, where he ſaith; *Not laying again the Foundation of Repentance from Dead Works.* And by theſe Dead Works, is underſtood not the Obedience and Juſtice of the inward Man, but the *opus operatum*, or external Action, proceeding from fear of puniſhment, or from vain glory, and deſire to be honoured of men: and theſe may be ſeparated from Faith, and conduce no way to a Mans Juſtification. And for that cauſe, S. *Paul*, Rom. 4. excludeth the Righteouſneſs of the Law, from having part in the Juſtification of a ſinner. For by the Law of *Moſes*, which is applyed to mens Actions, and requireth the Abſence of Guilt, all men living are liable

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to Damnation, and therefore no man is iustified by Works, but by Faith only. But if Workes be taken for the endeavour to doe them, that is, if the Will be taken for the Deed, or Internal, for External Righteousnes, then doe works contribute to Salvation. And then taketh place that of S. *James*, Chap. 2. 24. *Ye see then how that of works a man is iustisted, and not of faith only.* And both of these are ioyned to salvation, as in S. *Mark*. 1. 5. *Repent and believe the Gospel.* And *Luk.* 18. 18. when a certain Ruler asked our Saviour, what he ought to doe to inherit eternal life, he propounded to him the keeping of the Commandements; which when the Ruler said he had kept, he propounded to him the Faith, *Sell all that thou hast, and follow me.* And Joh. 3. 36. *He that beleeveth in the Son, hath everlasting life.* And *He that obeyeth not the Son, shall not see life.* Where he manifestly ioyneth Obedience and Faith together. And Rom 1. 17. *The Just shall live by Faith* : not every one, but *the Just.* For also *the Devils beleeve and tremble.* But though both Faith and Justice (meaning still by Justice, not absence of Guilt, but the Good Intentions of the Mind, which is called Righteousnes by God, that taketh the Will for the Deed) be both of them said to iustifie, yet are their Parts in the Act of Justification to be distinguished. For Justice is said to iustifie, not

becaule it abſolveth, but becauſe it denominates him Juſt, and ſetteth him in an eſtate, or capacity of ſalvation, whenſoever he ſhal have Faith. But faith is ſaid to juſtifie, that is, to abſolve, becauſe by it a iuſt man is abſolved of, and forgiven his uniuſt Actions. And thus are reconciled the places of S. *Paul*, and S. *James*, that *Faith only iuſtifieth*, and *A man is iuſtified by Faith onely*: and ſhewed how Faith and Repentance muſt concur to ſalvation.

11. Theſe things conſidered, it will eaſily appear, That under the Soveraign power of a Chriſtian Common VVealth, there is no Danger of Damnation from ſimple Obedience to Humane Lawes: for in that the Soveraign alloweth Chriſtianity, no man is compelled to renounce that Faith, which is enough for his Salvation, that is to ſay, the Fundamental Points. And for other Points, ſeeing they are not neceſſary to ſalvation, if we conform our Actions to the Lawes, we do not only what we are allowed, but alſo what we are commanded by the Law of Nature, which is the morall Law taught by our Saviour Himſelf. And it is part of that Obedience, which muſt concur to our Salvation.

12. And though it be true, whatſoever a man doth againſt his Conſcience, is ſin, yet the Obedience in theſe Caſes is neither ſin, nor againſt the Conſcience. For the Conſcience

science being nothing else but a Mans setled judgement and Opinion, when he hath once transferred his Right of Judging to another, that which shall be commanded, is no lesse his Judgement, then the Judgement of that other. So that in Obedience to Lawes, a man doth still according to his owne Conscience, but not his private Conscience. And whatsoever is done contrary to private Conscience, is then a Sin, when the Lawes have left him to his own liberty, and never else. And then whatsoever a man doth, not only believing it is ill done, but doubting whether it be ill or not, is done ill, in case he may lawfully omit the doing.

13. And as it hath been proved, that a man must submit his Opinions in matter of Controversie to the Authority of the Common Wealth, so also is the same confest by the practice of every one of them that otherwise deny it. For who is there differing in Opinion from another, and thinking himself to be in the right, and the other in the wrong, that would not think it reasonable, if he be of the same Opinion that the whole State alloweth, that the other should submit his opinion also thereunto; or that would not be content, if not that one or a few men, yet all the Divines of a whole Nation, or at least an Assembly of all those he liketh, should have the Power to determine all the Controversies of Religion? or, who

is there that would not bee content, to ſubmit his Opinions either to the Pope, or to a Generall Councel, or to a Provinciall Councel, or to a Presbyterie of his owne Nation? And yet in all theſe Caſes hee ſubmitteth himſelfe to no greater then Humane Authoritie.

Nor can a man bee ſaid to ſubmit himſelfe to Holy Scripture, that doth not ſubmit himſelfe to ſome or other for the Interpretation thereof. Or, why ſhould there bee any Church Government at all inſtituted, if the Scripture it ſelfe could doe the Office of a Judge in Controverſies of Faith, ? But the Truth is apparent, by continuall Experience, that men ſeeke not onely Liberty of Conſcience, but of their Actions, nor that onely, but a farther Liberty of perſwading

ding others to their Opinions; nor that onely, for every man desireth that the Soveraign Authoritie, should admit no other Opinions to bee maintained, but such as hee himselfe holdeth.

14. The difficulty therefore of obeying both God and Man in a Christian Common Wealth is none: All the difficulty resteth in this Point, Whether hee that hath received the Faith of Christ, having before subiected himselfe to the Authoritie of an Infidell, bee discharged of his Obedience thereby, or not, in matters of Religion.

In which case it seemeth reasonable to thinke, that since all Covenants of Obedience are entred into for the preservation

preſervation of a mans life, if a man be content without Reſiſtance to lay down his life, rather then obey the commands of an Infidel, in ſo hard a Caſe he hath ſufficiently diſcharged himſelf thereof. For no Covenant bindeth farther then to endeavour; and if a man cannot aſſure himſelf to perform a iuſt Duty, when thereby he is aſſured of preſent Death, much leſs it can be expected, that a man ſhould perform that, for which he believeth in his heart he ſhall be damned eternally. And thus much concerning the Scruple of Conſcience, that may ariſe concerning Obedience to Humane Lawes, in them that interpret the Law of God to themſelves. It remaineth, to remove the ſame ſcruple from them, that ſubmit their controverſies to others not ordained thereuuto by the Soveraign Authority. And this I refer to the Chapter following.

CHAP.

CHAP. VII.

1. *The Questions propounded, who are the Magistrates in the Kingdome of Christ.* 2. *The Questions exemplified, in the Controversies between* Moses *and* Aaron, *and between* Moses *and* Corah. 3. *Amongst the* Jews, *the Power Temporal and Spiritual in the same Hand.* 4. *Parallel of the Twelve Princes of* Israel, *and the twelve Apostles.* 5. *Parallel of Seventy Elders, and Seventy Disciples.* 6. *The Hierarchy of the Church in our Saviours time, consisted in the Twelve, and in the Seventy.* 7. *Why Christ ordained not Priests for Sacrifices, as* Moses *did.* 8. *The Hierarchy of the Church in the Apostles time, Apostles, Bishops, and Priests.* 9. *The Preaching of the Gospel, was not commanding,*

ing, but perſwading. 10. *Excommunication. Soveraignes immediate Rulers Eccleſiaſticall under Chriſt.* 11. *That no man hath any juſt Pretence of Religion againſt Obedience to Common-VVealth. God ſpeaketh to Man by his Vicegerents.*

IN the former Chapter have been removed thoſe difficulties oppoſing our Obedience to Humane Authority; which ariſe from miſunderſtanding of our Saviours Title and Lawes: in the former whereof, namely, his Title, conſiſteth our Faith; and in the latter, our Juſtice. Now they who differ not amongſt themſelves concerning his Title, and Lawes, may nevertheleſſe have different opinions concerning his Magiſtrates, and the Authority he hath given them. And this is the cauſe, why many Chriſtians have denyed Obedience to th ir Princes, pretending that our Saviour Chriſt hath not given this Magiſtracy to them but to others. As for example, ſome ſay, to the Pope univerſally; ſome to a Synod Ariſtocratical; Some, to a Synod Democraticall in every ſeveral Common VVealth; and the Magiſtrates of Chriſt being they by whom he ſpeaketh, the Queſtion is, Whether he

ſpeak

speak unto us by the Pope, or by Convocations of Bishops and Ministers, or by Them that have the Soveraign Power in every Common-Wealth.

2. This Controversie was the cause of those two Mutinies, that happened against *Moses* in the Wilderness. The first by *Aaron* and his Sister *Miriam*, who took upon them to censure *Moses* for marrying an *Ethiopian* woman. And the state of the Question between them and *Moses*, they set forth, *Numb.* 12. 2. in these words, *What hath the Lord spoken but only by Moses? hath he not spoken also by us? and the Lord heard this*, &c. and punished the same in *Miriam*, forgiving *Aaron* upon his Repentance. And this is the case of all them that set up the Priest-hood against the Soveraignty. The other was of *Corah*, *Dathan*, and *Abiram*, who with two hundred and fifty Captains gathered themselves together against *Moses*, and against *Aaron*. The state of their Controversie was this, Whether God were not with the Multitude, as well as with *Moses*, and every man as holy as he. For Numb. 16. 3. thus they say, *You take too much upon you, seeing all the Congregation is holy, every one of them, and the Lord is amongst them: wherefore then lift ye your selves above the Congregation of the Lord?* And this is the case of them that set up their private Consciences, and unite themselves to take the Government of Religion

Religion out of the hands of Him or Them, that have the Soveraign Power of the Common Wealth: which how well it pleaseth God, may appear by the hideous punishment of *Corah* and his Complices.

3. In the Government therefore of *Moses*, there was no power neither Civil, nor Spiritual, that was not derived from him. Nor in the State of *Israel* under Kings, was there any Earthly Power by which those Kings were compellable to any thing, or any Subiect allowed to resist them in any case whatsoever. For though the Prophets by extraordinary calling, did often admonish and threaten them, yet they had no Authority over them. And therefore amongst the Jews, the power Spirituall and Temporall, was alwayes in the same Hand,

4. Our Saviour Christ, as he was the rightful King of the Jewes in particular, as well as King of the Kingdome of Heaven, in the ordaining of Magistrates, received that form of Policy, which was used by *Moses*. According to the number of the Children of *Jacob*, *Moses* tooke unto him by the appointment of God, *Numb.* 1. 4. twelve men, every one of the chief of their Tribe, which were to assist him in the Muster of *Israel*. And these twelve, vers. 24. are called the *Princes of Israel*, *Twelve men, every one for the house of their Fathers*, which are said also, Numb. 7. 2. *To be heads over the Houses*

of

of their Fathers and Princes of the Tribes, and over them that were numbred. And these were every one equall amongst themselves, In like mauner our Saviour tooke unto him Twelve Apostles to be next unto him in Authority, of whom he saith, Matth. 19. 28. *when the Son of Man shall sit in the Throne of his Maiesty, ye shall follow me in the Regeneration, shall sit also upon Twelve Thrones, and judge the Twelve Tribes of Israel.* And concerning the equality of the Twelve Apostles amongst themselves, our Saviour saith, Matth. 20. 25. *Ye know that the Lords of the Gentiles have Domination over them,* &c. vers. 26. *But it shall not be so amongst you; but whosoever will be greatest among you, let him be your servant.* And Matth. 23. 11. *He that is greatest among you, let him be your Servant,* And a little before, vers. 8. *Be not called Rabbi, for one is your Doctor, Christ, and all ye are Brethren.* And Act. 1. in the chusing of *Matthias* to be an Apostle, though S. Peter used the part of a Prolocutor, yet did no man take upon him the Authority of Election, but referred the same to Lot.

5. Again *Moses* had the command of God, Num. 11. 16. *Gather to me seventy men of the Elders of Israel, whom thou knowest that they are the Elders of the People, and Governors over them, and bring them unto the Tabernacle, &c.* And *Moses* did accordingly, vers. 24. And these were chosen to help *Moses* in bearing

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the burthen of the Government, as appeareth verſ. 17. of the ſame Chapter. And as the Twelve Princes of the Tribes were according to the number of *Jacobs* Children, ſo were the ſeventy Elders according to the number of the perſons that went down with *Jacob* into *Egypt*. In like manner our Saviour in his Kingdome of Heaven, the Church, out of the whole number of thoſe that believed in him, ordained ſeventy Perſons, which peculiarly were called the ſeventy Diſciples, to whom he gave power to preach the Goſpel and Baptize.

6. In our Saviours time therefore, the Hierarchy of the Church conſiſted (beſides Himſelf that was the Head) of Twelve Apoſtles, who were equal amongſt themſelves, but ordained over others, as were the twelve Heads of the Tribes, or ſeventy Diſciples, who had every one of them power to Baptize and Teach, and help to govern the whole Flock.

7. And whereas in the Common Wealth inſtituted by *Moſes*, there was not only an High Prieſt for the preſent, but alſo a Succeſſion and Order of Prieſt; it may be demanded Why our Saviour Chriſt did not ordain the like? To which may be anſwered, That the High Prieſthood, for as much as concerneth the Authority thereof, was in the Perſon of Chriſt, as he was Chriſt, that is, King. So alſo was it in *Moſes*, *Aaron* having

having the Ministerial part only. For notwithstanding that *Aaron* was the High Priest, yet the consecration of him belonged to *Moses Exod.* 29. 1. All the Utensils of sacrifice, and other holy Things, were ordered by *Moses*, and in sum, the whole Levitical Law was delivered by God, by the hand of *Moses*, who was to *Aaron* a God; and *Aaron* to him a Mouth. And for the Ministerial part, there could no High Priest be ordained but himself: for seeing our Saviour was himself the Sacrifice, who but himself could offer him up? And for the celebration of that sacrifice for ever after, our Saviour annexed the Priest-hood to those whom he had appointed to govern in the Church.

8. After the ascension of our Saviour, the Apostles dispersed themselves for the spreading of the Gospel, and continually as they converted any number of men, in any city, or region, to the Faith; they chose out such as they thought fittest to direct them in matter of conversation and life, according to Christs law, and to explicate unto them, that Mysterie of Christ come in the flesh, that is to say, to unfold unto them at large the office of the Messiah. And of those Elders some were subordinate to others, according as the Apostles who ordained them, thought meet: so S. *Paul* gave power unto *Titus*, to ordain Elders in *Crete*, & to redress things that were amiss. So that *Titus* was an Elder & ordained

Elders

Elders. Tit. 1. 5. *For this cause I left thee in Creet, that thou shouldest continue to redress the things that remain, & ordain Elders in every City*, where the word is καταστήσῃς that is constitute; whereby it appeareth, that in the Apostles times, one Elder had authority over another, to ordain and rule them. For, 1 *Tim.* 5. 16. *Timothy* an Elder, is made iudg of accusations against other Elders. And *Act.* 14. 23. The Disciples are said to ordain Elders for all the congregations of the cities, they had preached in. And though the word there be χειροτονήσαντες, yet it signifieth not election, by holding up of hands, but simply and absolutely Ordination. For the ordinary chusing of Magistrates amongst the *Grecians*, which were all either popularly governed, or else by *Oligarchy*, being performed by holding up of hands, made that word be taken simply, for an Election, or Ordination, howsoever made. And thus in the Primitive Church, the Hierarchy of the Church was Apostles, Elders that governed other Elders, and Elders that ruled not, but their office was to preach, to administer the Sacraments, to offer up prayers and thanksgiving in the name of the People. But at that time there appeared no distinction between the names of Bishop and Elder. But immediatly after the Apostles time, the word Bishop was taken to signifie such an Elder as had the government of Elders; and other

Elders,

Elders, were called by the name of Priests, which signifieth the same that Elder doth. And thus the Government of Bishops hath a Divine pattern in the twelve Rulers, and seventy Elders of *Israel*, in the twelve Apostles, and seventy Disciples of our Saviour, in the ruling Elders, and not Ruling-Elders in the time of the Apostles.

9. And thus much of the Magistrates over Christs Flock in the primitive Church. For the office of a Minister, or Ministress was to be subject to the Flock, and to serve them in those things which appertained to their temporal business. The next thing to be considered is the Authority which our Saviour gave to them, either over those whom they had converted, or those whom they were about to convert. And for these latter, which as yet were without the Church, the authority which our Saviour gave to his Apostles was no more but this, To preach unto them that Jesus was the Christ, and to explicate the same in all points, that concern the Kingdome of Heaven, and to perswade men to embrace our Saviours Doctrine, but by no meanes to compel any man to be subject to them: for seeing the Lawes of the Kingdom of Heaven, as hath been shewed, *Par.* 1. *chap.* 5. *Sect.* 10. are dictated to the conscience onely, which is not subject to compulsion and constraint, it was not congruent to the style

ſtyle of the King of Heaven to conſtrain men their p
to ſubmit their actions to him, but to advi day of
them only; nor for him that profeſſeth th ons of
Sum of his law to be love, to extort any du- *Math* 1
ty from us with feare of temporall puniſh- doth i
ment. And therefore as the mighty men in thereo
the world, that hold others in ſubiection, by ration
force, are called in Scripture by the name o from
hunters, ſo our Saviour calleth thoſe whom preach
he appointed to draw the world unto him faith
by ſubduing their affections, *Fiſhers*. And his *wo*
therefore he ſaith to *Peter* and *Andrew*, derive
Math 4. 19. *Follow me and I will make you* ſhing
fishers of men. And Luke 10. 3. *Behold* alſo *M*
(ſaith Chriſt) *I ſend yee forth as Lambs a-* his ſw
mongſt Wolves. And it were to no end to *put up*
give them the right of compelling without *take th*
ſtrengthing the ſame with greater power verſ. 5
then of *Lambs* amongſt *wolves*. Moreover, *filed,*
Math 10. where our Saviour giveth a com- out of
miſſion to his twelve Apoſtles. to go forth Chriſt
and convert the Nations to the Faith, he gi- word.
veth them no authority of *Coercion* and pun- 10.
iſhment, but only ſaith, verſ. 14. *Whoſoever* Apoſtl
ſhall not receive you, nor hear your words, when eady
ye depart out of that houſe or that City, ſhake off here b
the duſt of your feet. It ſhall be eaſier for the land ithou
of Sodome and Gomorrah in the day of Judg- Law o
ment then for that city. Whereby it is mani- *an*
feſt, that all that the Apoſtles could do by *whilſt*
their authority, was no more than to re- Church
nounce communion with them, and leave their o

their

their punishment to God Almighty, in the day of Judgement. Likewise the comparisons of the Kingdom of Heaven, to the seed *Math* 13. 3. and to the Leven, *Math* 13. 33. doth intimate unto us, that the increase thereof ought to proceed from internall operation of Gods Word preached, and not from any Law or compulsion of them that preach it. Moreover our Saviour himselfe saith *Joh.* 18. 36. *That his Kingdome is not of this World*, and consequently his Magistrates derive not from him any authority of punishing men in this World. And therefore also *Math* 26. 52. After S. *Peter* had drawn his sword in his defence, our Saviour saith, *Put up thy sword into his place. For all that take the sword, shall perish by the sword.* And vers. 54. *How then shal the Scriptures be fulfilled, which say, that it must be so?* shewing out of the Scriptures, that the Kingdome of Christ was not to be defended by the sword.

10. But concerning the authority of the Apostles or Bishops over those who were allready converted and within the Church, here be that think it greater then over them without. For some have said. *Though the Law of Christ deprive no Prince of his Dominion, and Paul did rightly appeal unto Cesar, whilst Kings were infidells and out of the Church, yet when they became Christians, and of their own accord underwent the Lawes of the*

Gospel, presently as sheep to a shepherd, and as Members to the Head, they became subiect to the Prelate of the Ecclesiastical Hierarchy. Bell. Lib. De Rom. Pont. Chap. 29. which whether it be true or not, is to be considered by that light which we have from the holy Scripture, concerning the power of our Saviour and his Apostles, over such as they had converted. But our Saviour, as he imitated the common-wealth of the Jewes in his Magistrates, the twelve and the seventy, so did he also in the Censure of the Church, which was *Excommunication*; but amongst the Jews, the Church did put the Excommunicated persons from the Congregation, which they might do by their Power Temporall; but our Saviour and his Apostles, who took upon them no such Power, could not forbid the Excommunicated person to enter into any place and Congregation, into which he was permitted to enter, by the Prince, or Soveraign of the place. For that had been to deprive the Soveraign of his Authority. And therefore the Excommunication of a Person subject to an Earthly power, was but a Declaration of the Church, which did excommunicate, that the person so excommunicated was to be reputed still as an Infidell, but not to be driven by their Authority out of any company, he might otherwise lawfully come into. And this is it our Saviour saith, Math. 18. 17. *If he refuse to hear the Church,*

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let him be unto thee as an heathen man and a Publican. So that the whol effect of excommunicating a Christan Prince, is no more then he or they that so excommunicate him depart and banish themselves out of his Dominion. Nor can they thereupon discharge any of his subjects of their obedience to him; for that were to deprive him of his Dominion; which they may not do, for being out of the Church. It is confessed by them that make this objection, and proved in the former Section, that our Saviour gave no Authority to his Apostles to be judges over them. And therefore in no case can the Soveraign power of a Common-wealth be subject to any Authority Ecclesiasticall, besides that of Christ himselfe. And though he be informed concerning the Kingdome of Heaven and subject himselfe thereto, at the perswasions of persons Ecclesiasticall, yet is he not thereby subject to their Goverment and Rule. For if it were by their Authority he took that Yoke upon him, and not by their Perswasion, then by the same Authority he might cast it off. But this is unlawfull. For if all the Churches in the World should renounce the Christian Faith, yet is not this sufficient Authority for any of the Members to do the same. It is manifest therefore, that they who have Soveraign Power, are Immediate Rulers of the Church under Christ, and all other but subordinate

to them. If that were not, but Kings ſhould command one thing upon pain of Death, and Prieſts another, upon pain of Damnation, it would be impoſſible that Peace and Religion ſhould ſtand together.

11. And therefore there is no iuſt Cauſe for any man to withdraw his Obedience from the Soveraign State, upon pretence, that Chriſt had ordained any State Eccleſiaſticall above it. And though Kings take not upon them the Miniſteriall Prieſthood, yet are they not ſo meerly Laick, as not to have Sacerdotall Juriſdiction. To conclude this Chapter; Since God ſpeaketh not in theſe Dayes to any man by his private Interpretation of the Scriptures, nor by the Interpretation of any Power above or not depending on the Soveraign Power of every Common Wealth, it remaineth, that he ſpeaketh by his Vice-Gods, or Lievtenants here on Earth, that is to ſay, by Soveraign Kings, or ſuch as have Soveraign Authority as well as they.

CHAP. VIII

1. *The things that diſpoſe to Rebellion, Diſcontent, Pretence, and hope of Succeſſe. 2. Diſcontent that diſpoſeth to Sedition, conſiſteth partly in fear of want, or punſhment. 3. Partly in Ambition. 4. Six heads of pretences to Rebel-*

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lion 5. The first of them, That men ought to do nothing against Conscience, confuted. 6. The second, That Soveraigns are subiect to their own Lawes, confuted. 7. The third, That the Soveraignty is divisible, confuted. 8. The fourth, That Subiects have a Propertye distinct from the Dominion of the Soveraign confuted. 9. The fift. That the People is a Person distinct from the Soveraign, confuted. 10. The sixt, That tirannicide is lawfull confuted. 11. Foure Heads of Hope of succeße in Rebellion. 12. Two things necessary to an Author of Rebellion, much Eloquence, and little Wisdome. 13. That the Authors of Rebellion necessarily are to be men of little wisdome. 14. That the same are necessarily Eloquent. 15. In what manner they concur to their common Effects.

HItherto of the Causes why, and the Manner how, men have made Common Wealths. In this Chapter I shall shew breifly by what causes, and in what manner they be again destroyed; Not meaning to say any thing concerning the Dissolution of a Common Wealth, from forreign Invasions, which is as it were the violent Death thereof. I shall speak only of Sedition, which is also the Death of the Common-Wealth, but like to that which happeneth to a man from sickneße and Distemper. To dispose men to Sedition, three things con-

cur. The first is discontent; for as long as a man thinketh himself wel, and that the present Government standeth not in his way to hinder his proceeding from well to better, it is impossible for him to desire the change thereof. The second is pretence of Right; for though a man be Discontent, yet if in his own Opinion there be no just Cause of stirring against, or resisting the Government established, nor any Pretence to justify his Resistance, and to procure Aid, he will never shew it. The third is hope of success: For it were madness to attempt without hope, when to fail, is to dye the Death of a Traytor. Without these three, Discontent, Pretence, and Hope, there can be no Rebellion: and when the same are all together, there wanteth Nothing thereto, but a Man of Credit to set up the Standard, and to blow the Trumpet.

2. And as for Discontent, it is of two sorts: For it consisteth either in Bodily Pain present or expected, or else in Trouble of the Mind; (which is the general Division of Pleasure and Pain, Part 1. Cha. 7 Sect. 9.) The Presence of Bodily Pain disposeth not to Sedition; The feare of it doth. As for Example; When a great Multitude or Heap of people, have concurred to a Crime worthy of Death, they joyn together, and take Armes to defend themselves for feare thereof. So also the Feare of Want, or in present

present Want, the Feare of Arrests and Imprisonment dispose to Sedition. And therefore great Exactions, though the Right thereof be acknowledged, have caused great Seditions. As in the time of *Hen* 7. the Seditions of the *Cornish* men that refused to pay a Subsidy, and under the Conduct of the Lord *Audley*, gave the King Battel upon *Black Heath*; and that of the *Northern People*, who in the same Kings Time, for demanding a Subsidy granted in Parliament, murthered the Earl of *Northumberland* in his house.

3. Thirdly, the other sort of Discontent, which troubleth the Mind of them who otherwise live at ease, without fear of Want or danger of Violence, ariseth only from a sense of their Want of that Power, and that Honour and Testimony thereof, which they think is due unto them. For all Joy and Grief of mind consisting (as hath been said Part 1. Chap. 9. Sect. 21.) in a contention for Precedence to them with whom they compare themselves, such men must needs take it ill, and be greived with the State, as finde themselves postposed to those in Honour, whom they think they excell in Virtue and Ability to govern. And this is it for which they think themselves regarded but as Slaves. Now seeing Freedom cannot stand together with Subiection, Liberty in a Common Wealth is nothing but Govern-

ment and Rule, which becauſe it cannot be divided, men muſt expect in Common; and that can be no where but in the Popular State or Democracy. And *Ariſtotle* ſaith well, lib. 6. c. 2. of his Politicks, *The Ground or Intention of a Democracy, is Liberty.* Which he confirmeth in theſe words; *For men ordinarily ſay this, That no man can partake of Liberty, but only in a Popular Common Wealth;* Whoſoever therefore in a Monarchicall Eſtate, where the Soveraign Power is abſolutely in one Man, claimeth Liberty, claimeth (if the hardeſt conſtruction ſhould be made thereof) either to have the Soveraignty in his turn, or to be Collegue with him that hath it; or to have the Monarchy changed into a Democracy. But if the ſame be conſtrued (with pardon of that unskilful expreſſion) according to the Intention of him that claimeth, then doth he thereby claim no more but this, That the Soveraign ſhould take notice of his Ability and Deſerving, and put him into imployment and place of ſubordinate Government, rather then others that deſerve leſſe. And as one claimeth, ſo doth another, every man eſteeming his own Deſert greateſt. Amongſt all thoſe that pretend to, or are ambitious of ſuch Honour, a few only can be ſerved, unleſſe it be in a *Democracy*; the reſt therefore muſt be Diſcontent. And ſo much of the firſt Thing that diſpoſeth to Rebellion, namely,

namely, Discontent consisting in Fear, and Ambition.

4. The second thing that disposeth to Rebellion, is *Pretence of Right*. And that is when men have an Opinion, or pretend to have an Opinion, That in certain cases they may lawfully resist Him or Them that have the Soveraign Power, or deprive him or them of the Means to execute the same. Of which Pretences, there be six special Cases. One is, when the Command is against their Conscience, and they believe, it is unlawful for a Subiect at the Command of the Soveraign Power, to doe any Action, which he thinketh in his own Conscience not lawfull for him to do, or to omit any Action, which he thinketh not lawful for him to omit. Another is, when the Command is against the Lawes, and they think the Soveraign Power in such sort obliged to his own Lawes, as the Subiect is; and that when he performeth not his Duty, they may resist his Power. A Third is, when they receive Commands from some man or men, and a *Superſedeas* to the same from others, and think the Authority is equal, as if the Soveraign power were divided. A fourth is, when they are commanded to contribute their Persons or Money to the Publick service, and think they have a Propriety in the same distinct from the Dominion of the Soveraign Power; and that therefore they are not bound to contri-

bute their Goods and Persons, no more then every man shall of himself think fit. A Fifth, when the Commands seem hurtfull to the People; and they think every one of them, that the Opinion and Sense of the People, is the same with the Opinion of himselfe, and those that consent with him, calling by the Name of People, any Multitude of his own Faction. The sixth is, when the Commands are grievous; and they account him that commandeth grievous things, a Tyrant; and a Tyrannicide, that is the killing of a Tyrant, not onely Lawful, but also Laudable.

5. All these Opinions are maintained in the Books of the *Dogmaticks*, and divers of them taught in publick Chaires, and nevertheless are most incompatible with Peace and Government, and contradictory to the necessary and demonstrable rules of the same. And for the first, namely, That a man may lawfully doe or omit any thing against his Conscience, and from whence arise all Seditions concerning Religion and Ecclesiasticall Government, it hath been plainly declared in the two last Chapters, that such Opinion is erroneous. For those two Chapters have been wholly spent, to prove, That Christian Religion not onely forbiddeth not, but also commandeth, that in every Common Wealth, every Subiect should in all things to the uttermost of his

Power,

Power, obey the Commands of him or them that is the Soveraign thereof, and that a man in so obeying, doth according to his Conscience and Judgement, as having deposited his Judgement in all Controversies in the hands of the Soveraign Power; and that this Errour proceedeth from the Ignorance of What and by Whom God Almighty speaketh.

6. As for the second Opinion, which is this, That the Soveraign is in such sort obliged to his own Laws, as the Subiect is; the contrary thereof hath been shewed, Part 2. Chap. 1. Sect. 7,8,9,10,11,12. by which it appeareth, That the Soveraign Power is not to be resisted; That it carryeth the Sword both of War and Justice; That it hath Right of deciding all Controversies, both Judicial, and Deliberative; that it hath the the making of all the Lawes Civill, That it appointeth Magistrates and Publick Ministers, and That it implyeth an Universall Impunity: How can He or They be said to be subiect to the Lawes which they may abrogate at their pleasure, or breake without feare of punishment? And this Error seemeth to proceed from this, That men ordinarily understand not aright, what is meant by this word Law, confounding Law and Covenant, as if they signifie the same Thing. But Law implyeth a Command; Covenant is but a Promise. And not every Command

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is a Law, but only (Part 1. Chap. 13. Sect. 6.) when the Command is the Reason we have of doing the Action commanded. And then only is the Reason of our Actions in the Command, when the Omitting is therefore Hurtful, because the Action was commanded, not because it was hurtful of it self; and doing contrary to a Command, were not at all Hurtful, if there were not a Right in him that commandeth to punish him that so doth. He or They that have all Punishments in their own disposing, cannot be so commanded, as to receive hurt for disobeying, and consequently no Command can be a Law unto them. It is an Errour therefore to think, That the Power which is virtually the whole Power of the Common Wealth, and which in whomsoever it resideth, is usually called Supream, or Soveraign, can be subject to any Law but that of God Almighty.

7. The third Opinion, *That the Soveraign Power may be divided*, is no less an Errour then the former, as hath been proved, Part 2. Chap. 1. *Sect.* 15. And if there were a Common Wealth, wherein the Rights of Soveraignty were divided, we must confess with *Bodin*, lib. 2. Chap. 1. *De Repub.* That they are not rightly to be called Common Wealths but the Corruption of Common Wealths. For if one part should have power to make the Laws for all, they would by their Laws at their pleasure, forbid others, To make

Peace

Peace or War, To levy Taxes, or To yeild Fealty and Homage without their leave; and they that had the Right to make Peace and War, and command the Militia, would forbid the making of other Lawes, then what themselves liked. And though Monarchies stand long, wherein the Right of Soveraignty hath seemed so divided, because Monarchy of it self is a durable kind of Government, yet Monarchs have been thereby diverse times thrust out of their Possession. But the truth is, that the Right of Soveraignty is such, as He or They that have it, cannot (though they would) give away any part thereof, and retaine the Rest. As for example; If we should suppose the People of *Rome* to have had the absolute Soveraignty of the *Romane* State, and to have chosen them a Councel by the Name of the Senate, and that to this Senate they had given the Supream Power of making Lawes, Reserving nevertheless to themselves in direct and expres Terms, the whole Right and Title of the Soveraignty; (which may easily happen amongst them that see not the inseparable Connexion between the Soveraign Power, and the Power of making Lawes) I say, this Grant of the People to the Senate, is of no effect, and the Power of making Lawes is in the People still. For the Senate understanding it to be the Will, in intention of the People to retain the Soveraignty, ought not to take that for

for granted, which was contradictory thereto, and passed by Error. For Part 1. Chap. 13. Sect. 9. In contradictory Promises, that which is directly promised, is preferrd before that which is oppositp thereunto by Consequence, because the Consequence of a thing is not alwales obscured, as is the Thing it self. The Error concerning Mixt Government hath proceeded from want of Understanding of what is ment by this word, *Body Politick*, and how it signifieth not the Concord, but the Union of many men. And though in the Chapters of subordinate Corporations, a Corporation being declared to be one Person in Law, yet the same hath not been taken notice of in the Body of a Common Wealth or City, nor have any of those inumerable Writers of Politicks, observed and such Union.

8. The Fourth Opinion, to wit, That Subiects have their *Meum*, *Tuum*, & *Suum*, in property, not only by Virtue of the Soveraign Power over them all, distinct from one another, but also against the Soveraign himself, by which they would pretend to contribute nothing to the Publick, but what they please, hath been already confuted, by proving the Absoluteness of the Soveraignty and more particularly, Part 2. Chap. 5. Sect. 2. and ariseth from this, That they understand not ordinarily that before the Institution of Soveraign Power, *Meum & Tuum* implyed

plyed no Propriety, but a Community, where every man had right to every Thing, and was in state of war with every man.

9. The fifth opinion, *That the People is a distinct Body from Him or Them that have the Soveraignty over them*, is an Error already confuted Part 2. Chap. 2. Sect. 11. where is shewed, that when men say, *The People rebelleth*, it is to be understood of those particular persons onely, and not of the whole Nation. And when the People claimeth any thing otherwise then by the Voice of the Soveraign Power, it is not the claim of the people, but only of those particular men, that claim in their own persons. And this Error ariseth from the equivocation of the word *People*.

10 Lastly, for the Opinion, *That Tyrannicide is lawfull*, meaning by a Tyrant, any man in whom resideth the Right of Soveraignty, is no lesse false and pernicious to Humane Society, then frequent in the Writings of those Moral Philosophers, *Seneca* and others, so greatly esteemed amongst us. For when a man hath the Right of Soveraignty, he cannot iustly be punished, as hath been often shewed already, and therefore much lesse deposed, or put to Death. And howsoever he might deserve punishment, yet punishment is uniust without Judgment preceding, and Judgment uniust without Power of Judicature, which a Subiect hath not over a Soveraign. But this Doctrine proceedeth

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from the Schools of *Greece*, and from those that writ in the Romane State, in which not onely the Name of a Tyrant, but of a King was hatefull.

11. Beside *Discontent* to the disposing of a Man to Rebellion, and Pretence there is required in the third place, *Hope of Successe*, which consisteth in foure Points: 1. That the discontented have mutual Intelligence. 2. That they have sufficient Number. 3. That they have Armes. 4. That they agree upon an Head. For these four must concur to the making of one Body of Rebellion, in which Intelligence is the Life, Number the Limbs, Arms the strength, and an Head the Unity, by which they are directed to one and the same Action.

12. The Authors of Rebellion, that is, the men that breed these Dispositions to Rebel in others, of necessity must have in them these three Qualities. 1. To be discontented themselves. 2. To be men of mean Judgment and Capacity. And thirdly, to be Eloquent men, or good Orators. And as for their Discontent, from whence it may proceed, hath been already declared And for the second and third, I am to shew now, first, how they may stand together; for it seemeth a contradiction, to place small Judgement, & great Eloquence, or (as they call it) Powerful speaking in the same man. And then in what manner they concur, to dispose other men to Sedition. 13. It

13. It was noted by *Saluſt*, That in *Catiline* (who was Author of the greateſt Sedition that ever was in *Rome*) there was *Eloquentiæ Satis, Sapientiæ parum*, *Eloquence ſufficient* but *little wiſdome*. And perhaps this was ſaid of *Catiline*, as he was *Catiline*. But it was true of him, as an Author of Sedition. For, the Coniunction of theſe two Qualities made him not *Catiline*, but Seditious. And that it may be underſtood, how want of *Wiſdome*, and ſtore of *Eloquence*, may ſtand together, we are to conſider, what it is we call Wiſdome, and what Eloquence. And therefore I ſhall here again remember ſome things, that have been ſaid already, Part 1. chap. 5. 6. It is manifeſt that Wiſdome conſiſteth in Knowledge. Now of Knowledge there are two kinds; whereof the one is the Remembrance of ſuch Things, as we have conceived by our Sences, and of the Order, in which they follow one another. And this *Knowledge* is called *Experience*; and the Wiſdom that proceedeth from it, is that Ability to coniecture by the preſent, of what is paſt, and to come, which men call *Prudence*. This being ſo, it is maniteſt preſently, that the Author of Sedition, whoſoever he be, muſt not be Prudent. For if he conſider and take his Experience aright, concerning the Succeſs which they have had, who have been the Movers and Authors of Sedition, either in this or any other State, he ſhall find, that for

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one man that hath thereby advanced himself to honour, twenty have come to a Reproachful end. The other kind of Knowledge, is the Remembrance of the Names or Appellations of things, and how every thing is called, which is in matters of Common Conversation, a Remembrance of Pacts and Covenants of men made amongst themselves, concerning how to be understood of one another. And this kind of Knowledge is generally called Science, and the conclusions thereof Truth. But when men remember not how things are named, by general agreement, but either mistake & mis-name things, or name them aright by chance, they are not said to have Science, but Opinion, and the Conclusions thence proceeding, are uncertain, and for the most part erroneous. Now that Science in particular, from which proceed the true and evident conclusions of what is Right and Wrong, and what is Good and Hurtful to the Being, and Well-being of Mankind, the Latines call *Sapientia*, and wee by the generall Name of Wisdome. For generally, not he that hath skill in Geometry, or any other Science speculative, but only he that understandeth what conduceth to the good and government of the people, is called a Wise man. Now that no Author of Sedition can be wise in this Acception of the Word, is sufficiently proved, in that it hath been already demonstrated, that no

Pretence

Pretence of Sedition can be right or Juſt. And therefore the Authors of Sedition muſt be ignorant of the Right of State, that is to ſay, Unwiſe. It remaineth therefore, that they be ſuch, as name things, not according to their true and generally agreed upon Names, but call Right and Wrong, Good and Bad, according to their Paſſions, or according to the Authorities of ſuch, as they admire, as *Ariſtotle*, *Cicero*, *Seneca*, and others of like Authority, who have given the names of Right and Wrong, as their Paſſions have dictated; or have followed the Authority of other men, as we do theirs. It is required therefore in an Author of Sedition, that he think Right, that which is Wrong; and profitable, that which is pernicious; and conſequently that there be in him *Sapientiæ parum*, little Wiſdome.

14. Eloquence is nothing elſe but the Power of winning Belief of what we ſay. And to that end we muſt have Ayd from the Paſſions of the Hearer. Now to Demonſtration and Teaching of the Truth, there are required Long Deductions, and great Attention, which is unpleaſant to the Hearer. Therefore they which ſeek not Truth, but Belief, muſt take another way, and not only derive what they would have to be believed from ſomewhat believed already, but alſo by Aggravations and Extenuations, make Good and Bad, Right & VVrong, appear Great or

Leſſe,

Lesse, according as shall serve their turnes. And such is the Power of Eloquence, as many times a man is made to believe thereby, that hee sensibly feeleth smart and damage, when he feeleth none, and to enter into rage and indignation, without any other cause, then what is in the words and passion of the speaker. This considered, together with the Businesse that he hath to do, who is the Author of Rebellion, namely, to make men believe, that their Rebellion is just, their Discontents grounded upon great Iniuries, and their Hopes great; There needeth no more to prove, there can be no Author of Rebellion, that is not an Eloquent and Powerfull Speaker, and withall (as hath been said before) a man of little Wisdome. For the Faculty of speaking powerfully, consisteth in an Habit gotten of putting together passionate Words, and applying them to the present passions of the Hearer.

15. Seeing then Eloquence and want of Discretion concur to the stirring of Rebellion, it may be demanded, what part each of these acteth therein. The Daughters of *Pelias* King of *Thessaly*, desiring to restore their old Decrepit Father to the Vigour of his Youth, by the Counsell of *Medea*, chopped him in pieces, and set him a boyling with I know not what Herbs in a Cauldron, but could not revive him again. So when Eloquence and want of Judgement go together,

want

want of Judgment like the Daughters of *Pelias* consenteth through Eloquence, which is as the Witchcraft of *Medea*, to cut the common Wealth in peices, upon Pretence, or Hope of Reformation, which when things are in combustion, they are not able to effect.

CHAP. IX.

1. *The Law over Soveraigns*, Salus Populi. 2. *That Soveraigns ought to establish the Religion they hold, for best.* 3. *That to forbid unnatural copulation, promiscuous use of Women* &c. *is the Law of Nature.* 4. *That to leave man as much Liberty as may be,* &c *is the Duty of a Soveraign by the Law of Nature.* 5. *Meum & Tuum to be set out to the Subjects distinct from one another,* &c. *a Duty of Soveraigns by the Law of Nature.* 6. *An extraordinary Power for Judging the Abuses of Magistrates necessary,* &c. 7. *The suppressing of Popularity,* &c. *necessary,* &c. 8. *The Institution of Youth,* &c. *necessary,* &c. 9. *Avoiding of unnecessary War, a necessary Duty of the Soveraign,* &c.

HAving hitherto set forth how a Body Politick is made, and how it may be destroyed, this place requireth to say something concerning the preservation of the same, not purposing to enter into the particulars of

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the Art of Government, but to ſum up the general Heads, wherein ſuch Art is to be imployed, and in which conſiſteth the Duty of Him or Them that have the Soveraign Power. For the Duty of a Soveraign conſiſteth in the Good Government of the People. And although the Acts of Soveraign power be no Injuries to the Subiects who have conſented to the ſame by their implicite Wills, yet when they tend to the hurt of the people in general, they be Breaches of the Law of Nature, and of the Divine Law; and conſequently the contrary Acts are the Duties of Soveraigns, and required at their hands to the utmoſt of their endeavour by God Almighty, under the pain of Eternall Death. And as the Art and Duty of Soveraigns conſiſt in the ſame Acts, ſo alſo doth their Profit. For the end of Art is Profit, and Governing to the Profit of the Subiects, is Governing to the Profit of the Soveraign, as hath been ſhewed Part 2. Chap. 5. Sect. 1. And theſe three: 1. The Law over them that have Soveraign power 2. Their Duty; 3. Their Profit, are one and the ſame thing contained in this ſentence, *Salus Populi Suprema Lex.* By which muſt be underſtood, not the meer preſervation of their lives, but generally their Benifit and Good. So that this is the generall Law for Soveraigns, *That they procure to the uttermoſt of their Endeavour, the Good of the People.*

2. And

2. And for as much as Eternal, is better than Temporal Good, it is evident, that they who are in Soveraign Authority, are by the Law of Nature obliged to further the establishing of al such Doctrines and Rules; and the Commanding of all such Actions, as in their Conscience they beleive to be the true way thereunto. For unless they do so, it cannot be said truly, that they have done the uttermost of their Endeavour.

3. For the Temporal Good of the people, consisteth in four points: 1. Multitude 2. Commodity of living. 3. Peace amongst themselves. 4. Defence against Forraign Power. Concerning Multitude. It is the duty of them that are in Soveraign Authority, to increase the people; in as much as they are Governours of Mankind under God Almighty, who having created but One Man, and One Woman, declared, That it was his Will they should be multiplyed and increased afterwards. And seeing this is to be done by Ordinances concerning copulation, they are by the Law of Nature bound to make such Ordinances concerning the same, as may tend to the Increase of Mankind. And hence it cometh, that in them who have Soveraign Authority, not to forbid such Copulations as are against the Use of Nature; not to forbid the promiscuous Use of VVomen, not to forbid one VVomen to have many Husbands, not to forbid Marriages

riages within certain Degrees of Kindred and Affinity, are against the Law of Nature. For though it be not evident, that a private man living under the Law of Natural Reason only, doth break the same, by doing any of the Things aforesaid, yet it is manifestly apparent, that being so prejudicial as they are to the Improvement of Mankind, that not to forbid the same, is against the Law of Natural Reason, in him that hath taken into his hands any portion of Mankind to improve.

¶ 4. The Comodity of Living consisteth in Liberty and VVealth. By Liberty I mean, that there be no Prohibition without necessity of any thing to any man, which was lawful to him in the Law of Nature, that is to say, That there be no Restraint of Naturall Liberty, but what is necessary for the Good of the Common VVealth, and that well-meaning men may not fall into the Danger of Lawes, as into snares, before they be aware. It appertaineth also to this Liberty, That a man may have commodious passage from place to place, and not be imprisoned or confined with the Difficulty of wayes, and want of means for transportation of things necessary. And for the wealth of people it consisteth in three things, The well ordering of Trade, Procuring of Labour, and Forbiding the superfluous consuming of Food and Apparel. All those therefore that are in Sove-

raign

raign Authority, and have taken upon them the Government of People, are bound by the Law of Nature to make Ordinances consisting in the Points afore named, as being contrary to the Law of Nature, unnecessarily either for ones own Fancy, to inthrall, or ty men so, as they cannot move without danger, or to suffer them whose maintenance is our benefit, to want any thing necessary for them, by our Negligence.

5. For mainraiinng of Peace at home, there be so many Things necessary to be considered, and taken order in, as there be several Causes concurring to Sedition. And first, it is necessary to set out to every Subiect, his Propriety and distinct Lands and Goods, upon which he may exercise, and have the Benefit of his own Industry, and without which, men would fall out amongst themselves, as did the Heardsmen of *Abraham* and *Lot*, every man enchroaching and usurping as much of the common Benefit as he can, which tendeth to Quarel and Sedition. Secondly, to divide the Burthens and Charges of the Common Wealth proportionably. Now there is a *Proportionably* to every mans Abilily, and there is a *Proportionably* to his Benefit by Common Weath. And this latter is it, which is according to the Law of Nature. For the Burdens of the Common Wealth being the Price that we pay for the Benefit thereof, they ought to be measured there.

by. And there is no reaſon, when two men equally enioying by the benefit of the Common Wealth, their Peace and Liberty, to uſe their Induſtry to get their Livings, where of one ſpareth, and laieth up ſomewhat, the other ſpendeth all he gets, why they ſhould not equally contribute to the common charge. That ſeemeth therefore to be the moſt equall way of dividing the burden of publick charge, when every man ſhall contribute according to what he ſpendeth, and not according to what he gets. And this is then done, when men pay the Common Wealths Part in the payments they make for their own Proviſion. And this ſeemeth not only moſt equal, but alſo leaſt ſenſible, and leaſt to trouble the mind of them that pay it. For there is nothing ſo aggravateth the grief of parting with money to the Publick, as to think they are over-rated, and that their Neighbours whom they envy, do thereupon inſult over them, and this diſpoſeth them to Reſiſtance, and (after that ſuch Reſiſtance hath produced a miſchief) to Rebellion.

6. An other thing neceſſary for the maintaining of peace, is the due execution of iuſtice, which conſiſteth principally in the right performance of their Duties, which are the Magiſtrates, ordained for the ſame by and under the Authority of the Soveraign Power, which being private men in reſpect of the Soveraign; and conſequently ſuch as may

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have private Ends, whereby they may be corrupted with gifts, or Interceſſion of Friends, ought to be kept in awe by an higher Power, leſt people (greived by their Injuſtice) ſhould take upon them to make their own Revenges, to the Diſturbance of the common Peace; which can by no way be avoided in the prineipal and immediate Magiſtrates, without the Judicature of the Soveraign himſelf, or ſome extraordinary power delegated by him. It is therefore neceſſary, that there be a power extraordinary, as there ſhall be occaſion from Time to Time, for the ſyndication of Judges and other Magiſtates, that ſhall abuſe their Authority, to the Wrong and diſcontent of the People, and a free and open way for the preſenting of Grievances to him or them that have the Soueraign Authority.

7. Beſides theſe Conſiderations, by which are prevented the Diſcontents that ariſe from Oppreſſion, there ought to be ſome meanes for the keeping under of thoſe, that are diſpoſed to Rebellion by Ambition; which conſiſt principally in the conſtancy of him that hath the Soveraign Power, who ought therefore conſtantly to grace and encourage ſuch, as being able to ſerve the Common Wealth, do nevertheleſs contain themſelves within the bounds of Modeſty, without repining at the Authority of ſuch as are imployed, and without aggravating the

Errours which (as men) they may commit, especially when they suffer not in their own particular; and constantly to shew displeasure, & dislike of the contrary. And not only so, but also to ordain severe punishments for such, as shall by Reprehension of publick Actions, affect popularity and applause amongst the multitude, by which they may be enabled to have a faction in the Common Wealth at their Devotion.

8. Another thing necessary, is the rooting out of the Consciences of men all those opinions which seem to iustifie and give pretence of Right to Rebellious Actions; such as are the Opinions, That a man can do nothing lawfully against his private Conscience; That they who have the Soveraignty, are subiect to the civil Laws: That there is an Authority of Subiects, whose Negative may hinder the Affirmative of the Soveraign Power; That any Subiect hath a propriety distinct from the Dominion of the Common Wealth; That there is a body of the People without him or them that have the Soveraign power; & that any lawful Soveraign may be resisted under the name of a Tyrant; which Opinions are they, which Part 2. Chap. 8. Sect. 5. 6, 7, 8, 9, 10. have been declared, to dispose men to Rebellion. And because Opinions which are gotten by education, and in length of time, are made habitual, cannot be taken away by force, and upon

upon the ſudden; they muſt therefore be taken away alſo by Time and Education. And ſeeing the ſaid Opinions have proceeded from private and publick Teaching, and thoſe Teachers have received them from Grounds and Principalls, which they have learned in the Univerſities, from the Doctrine of *Ariſtotle*, and others, who have dilivered nothing concerning Morality and Policy demonſtratively, but being paſſionately addicted to Popular Government, have inſinuated their Opinions by eloquent Sophiſtry. There is no doubt, if the true Doctrine concerning the Law of Nature, and the Properties of a Body Politick, and the Nature of Law in general, were preſpicuouſly ſet down and taught in the Univerſities, but that Young men, who come thither void of preiudice and whoſe minds are as white paper, capable of any Inſtruction, would more eaſily receive the ſame, and afterwards teach it to the people, both in Books and otherwiſe, then now they do the contrary.

9. The laſt Thing contained in that Supream Law, *Salus Populi*, is their Defence, and conſiſteth partly in the Obedience and Unity of the Subiects, of which hath been already ſpoken, and in which conſiſteth the Means of levying Souldiers, and of having Money, Arms, Ships, and Fortified places in readineſs for Defence; and partly, in the avoiding of unneceſſary Wars. For ſuch

Common Wealths, or such Monarchs, as affect War for it self, that is to say, out of Ambition, or of Vain Glory, or that make account to revenge every little Iniury, or Disgrace done by their Neighbours, if they ruine not themselves, their Fortune must be better then they have reason to expect.

CHAP. X.

1. *All Expressions, &c. concerning future Actions, are either Covenant, Councel or Command.* 2. *The Difference between a Law and a Covenant.* 3. *The Command of him whose Command is Law in one thing, is Law in every thing.* 4. *The Difference between Law and Counsell.* 5. *The difference between* Jus *and* Lex. 6. *The Division of Laws, &c.* 7. *That the Divine Morall Law, and the Law of Nature, is the same.* 8. *That the Civil Lawes are the Common Measure of Right and Wrong, &c.* 9. *Martiall Law is Civil Law.* 10. *Written Laws, &c. unwritten, &c. Customes and Opinions, &c.*

THus far concerning the Nature of man, and the constitution and properties of a Body Politick. There remaineth only for the last Chapter, to speak of the Nature and sorts of Law. And first, it is manifest, that all Laws are Declarations of the Mind, concerning

erning some Action future to be done, or omitted. And all Declarations and Expressions of the Mind concerning Future Actions and Omissions, are either *Promissive*, as *I will do, or not do*, or *proviſive*. As for Example, *If this be done or not done, this will follow*; or *Imperative*, as *Do this, or do it not*. In the first sort of these Expressions, consisteth the Nature of a Covenant, in the second, consisteth Counsel, in the third, Command.

2. It is evident when a man doth, or forbeareth to do any action, if he be moved thereto by this only Consideration, that the same is Good or evil in it self; and that there be no reason why the will or pleasure of another, should be of any weight in his Deliberation, that then neither to do nor omit the Action deliberated is any Breach of Law. And consequently, whatsoever is a Law to a man, respecteth the Will of another, and the Declaration thereof. But a Covenant is a Declaration of a mans own Will. And therefore a Law and a Covenant differ: And though they be both obligatory, and a Law obligeth no otherwise then by vertue of some covenant made by him who is subiect thereunto, yet they oblige by severall sorts of promises. For a Covenant obligeth by promise of an Action, or Omission especially named and limited; but a Law bindeth by a promise of Obedience in general, whereby the Action to be done, or left undone, is refer-

red to the determination of him, to whom the Covenant is made. So that the Difference be tween a Covenant and a Law, standeth thus: In Simple Covenant, the Action to be done, or not done, is first limited and made known, and then followeth the Promise to do or not to do; but in a Law, the obligation to do or not to do, precedeth, and the Declaration what is to be done, or not done, followeth after.

3. And from this may be deduced, that which to some may seem a *Paradox*, *That the Command of him, whose Command is a Law in one thing, is a Law in every thing.* For seeing a man is obliged to obedience before what he is to do be known, he is obliged to obey in general, that is to say, in every thing.

4. That the Counsel of a man is no Law to him that is counselled, and that he who alloweth another to give him counsell, doth not thereby oblige himself to follow the same, is manifest enough. And yet men usually call Counselling, by the name of Governing, not that they are not able to distinguish between them, but because they envy many times those men that are called to Counsel, & are therefore angry with them that they are Counselled. But if to Counsellours there should be given a Right to have their Counsell followed, then are they no more Counsellours, but Masters of them whom they Counsel; and their Counsels no more

more Counsels, but Lawes. For the difference between a Law and a Counsel being no mor but this, that in Counsel the Expression is *Do, because it is best*; In a Law *Do, because I have a right to compel you*; or *Do, because I say Do*; when Counsel should give the Reason of the Action it adviseth to, because the reason thereof it self is no more Counsel, but a Law.

5. The Names *Lex* & *Jus*, that is to say, Law and Right, are often confounded, and yet scarce are there any two words of more contrary signification. For Right is that Liberty which Law leaveth us, and Laws those Restraints by which we agree mutually to abridge on anothers Liberty. Law and Right therefore are no less different then Restraint and Liberty, which are contrary, and whatsoever a man doth, that liveth in a Common Wealth *Jure*, he doth it *Jure Civili*, *Jure Naturæ*, and *Jure Divino*. For whatsoever is against any of these Laws, cannot be said to be *Jure*. For the Civill Law cannot make that to be done *Jure*, which is against the Law Divine, or of Nature. And therefore whatsoever any Subiect doth, if it be not contrary to the Civil Law, and whatsoever a Soveraign doth, if it be not against the Law of Nature, he doth it *Jure Divino*, by *Divin right*. But to say *Lege divina*, by *Divine Law*, is another thing. For the Laws of God and Nature allowing greater liberty then is allowed

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by the Law Civil; (for ſubordinate Laws do ſtill bind more then Superior Laws, the Eſſence of Law being not to looſe, but to bind) A man may be commanded that by a Law Civil, which is not commanded by the Law of Nature, nor by the Law Divine. So that of things done *Lege*, that is to ſay, by Command of the Law, there is ſome place for a Diſtinction between *Lege Divina* & *Lege Civili*. As when a man giveth an Alms, or helpeth him that is in need, he doth it not *Lege Civili* but *Lege Divina*, by the Divine Law, the Precept whereof is *Charity*. But for things that are done *Jure*, nothing can be ſaid done *Jure Divino*, that is not alſo *Jure Civili*, unleſs it be done by them that having Soveraign Power, are not ſubiect to the civil Law.

6. The Differences of Law, are according to the Differences either of the Authors and Lawmakers, or of the promulgation, or of thoſe that are ſubiect to them. From the Difference of the Authors, or Law makers, cometh the Diviſion of Law into Divine, Natural, and Civil. From the Difference of Promulgation, proceedeth the Diviſion of Laws, into *written* and *unwritten*. And from the Difference of the perſons to whom the Law appertaineth, it proceedeth, that ſome Laws are called ſimply Laws, and ſome Penal. As for Example, *Thou ſhall not ſteal* is ſimply a Law; but this, *He that ſtealeth an Ox, ſhall reſtore four-fold*, is a Penal or as other call

all it a Judicial Law. Now in those Laws which are simply Laws, the Commandement is addressed to every man; but in Penal Laws the Commandement is addressed to the Magistrate, who is only guilty of the Breach of it when the Penalties ordained, are not inflicted: To the Rest appertaineth Nothing but to take notice of their Danger.

7. As for the first Division of Law into Divine, Natural, and Civil, the first two Branches are one and the same law. For the law of Nature, which is also the Moral law, is the law of the Author of Nature, God Almighty; and the law of God taught by our Saviour Christ, is the Morall law. For the Sum of Gods law is; *Thou shalt love God above all and thy Neighbour as thy self*; and the same is the sum of the Law of Nature, as hath been shewed, Part 1. Chap. 5. And although the Doctrin of our Saviour be of three Parts, *Moral*, *Theological* and *Ecclesiasticall*, the former part only, which is the Moral, is of the Nature of a Law Universal; the latter part is a Branch of the Law Civil; and the Theological which containeth those Articles concerning the Divinity and Kingdome of our Saviour, without which there is no Salvation, is not dilivered in the Nature of Laws, but of Counsel and Direction, how to avoid the punishment, which by the Violation of the Moral Law, men are subiect to. For it is not Infidelity that condemneth,

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(though it be Faith that saveth) but the Breach of the Law and Commandements of God, Written first in mans heart, and afterwards in Tables, and delivered to the Jews by the Hands of *Moses*.

8. In the state of Nature where every man is his own Judge, and differeth from other concerning the Names and Appellations of things, and from those Differences arise Quarels and breach of Peace, it was necessary there should be a common measure of all things, that might fall in Controversie. As for Example; Of what is to be called Right, what Good, what Virtue, what Much, what Little, what *Meum & Tuum*, what a Pound, what a Quarter, *&c.* For in these Things Private Judgements may differ, and beget Controversie. This Common measure, some say is *Right Reason*, with whom I should consent, if there were any such thing to be found or known in *rerum natura*. But commonly they that call for *Right Reason* to decide any controversy, do mean, their own. But this is certain, seeing *Right Reason* is not existent, the Reason of some Man or Men must supply the place thereof, and that man or men is He or They, that have the Soveraign Power, as hath been already proved; and consequently the Civil Laws are to all Subiects the Measures of their Actions whereby to determine whether they have Right or Wrong, Profitable, or Unprofitable, Virtuous

Virtuous or Vitious, and by them the Use and Definition of all Names not agreed upon, and tending to controversie, shall be established. As for Example, When upon the occasions of some strang and deformed Birth it shall not be decided by *Aristotle*, or the Philosophers, whether the same be a man, or no, but by the Laws, the Civil Law containing in it the ecclesiastical, as a part thereof, proceeding from the Power of Ecclesiastical government, given by our Saviour to all Christian Soveraigns, as his immediate Vicars, as hath been said Part 2. Chap. 7. Sect. 10.

9. But seeing it hath been said, That all Laws are either Natural, or Civil, it may be demanded, to which of these shall be referred that Law, which is called Martial Law, and by the *Romans*, *Disciplina militaris*? And it may seem to be the same with the law of nature; because the Laws by which a multitude of Souldiers are governed in an Army are not constant, but continually changing with the Occasion; and that is still a Law, which is Reason for the present, and Reason is the Law of Nature. It is nevertheless true, that Martial Law is Civil Law, because an Army is a Body Politick, the whole Power whereof is in the General, and the Laws thereof made by him; and though they still follow and change as Reason requireth, yet it is not as the Reason of every Private man but as

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the Reason of the General requireth.

10. When He or They in whom is the Soveraign power of a Common Wealth, are to ordain Law for the government and good Order of the People, it is not possible they should comprehend all Cases of Controversie that may fall out, or perhaps any considerable diversitie of them; but as time shall instruct them by the rising of new occasions, so are also Laws from time to time to be ordained: and in such Cases where no special Law is made, the Law of Nature keepeth its Place, and the Magistrates ought to give sentence according thereunto, that is to say, according to Natural Reason. The Constitutions therefore of the Soveraign Power, by which the Liberty of Nature is abridged, are written, because there is no other way to take notice of them, whereas the Laws of Nature are supposed to be written in mens hearts, Written Laws therefore are the constitutions of a Common Wealth expressed; and Unwritten, are the laws of Natural Reason. Custome of it self maketh no laws. Nevertheless when a Sentence hath been once given by them that judge by their Natural Reason, whether the same be Right or Wrong, it may attain to the vigour of a law; not because the like Sentence hath of Custome been given in the like case, but because the Soveraign Power is supposed tacitely to have approved such Sentence for Right

Right, and thereby it commeth to be a Law, and numbred amongst the Written laws of the Common Wealth. For if Custom were sufficient to introduce a law, then it would be in the power of every one that is deputed to hear a Cause, to make his Erours laws. In the like manner, those that goe under the Title of *Responsa Prudentum*, that is to say, the Opinions of Lawyers, are not therefore Laws, because *Responsa Prudentum*, but because they are admitted by the Soveraign; and from this may be collected, That when there is a Case of private contract between the Soveraign and the Subiect, a President against reason shall not preiudice the cause of the Soveraign; no President being made a Law, but upon supposition that the same was reasonable from the beginning. And thus much concerning the Elements and general grounds of Laws Natural and Politick. As for the Law of Nations, it is the same with the Law of Nature. For that which is the Law of Nature between Man and Man, before the constitution of Common Wealth, is the Law of Nations between Soveraign and Soveraign after.

FINIS.